

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

	x	
	:	
THE CITY OF HUNTINGTON,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01362
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

	x	
	:	
CABELL COUNTY COMMISSION,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01665
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

BENCH TRIAL - VOLUME 32
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

JUNE 30, 2021

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Proceedings recorded by mechanical stenography;
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1 PROCEEDINGS had before The Honorable David A. Faber,
2 Senior Status Judge, United States District Court, Southern
3 District of West Virginia, in Charleston, West Virginia, on
4 June 30, 2021, at 9:00 a.m., as follows:

5 THE COURT: Ms. Kearse, you may proceed.

6 MS. KEARSE: Good morning, Your Honor. Plaintiffs
7 call Mayor Steve Williams to the stand.

8 THE COURT: Okay.

9 THE CLERK: Please state your name.

10 THE WITNESS: Steve Williams.

11 THE CLERK: Thank you. Please raise your right
12 hand.

13 **STEVE WILLIAMS, PLAINTIFFS' WITNESS, SWORN**

14 THE CLERK: Thank you. Please take a seat.

15 THE COURT: Good morning, Mayor.

16 DIRECT EXAMINATION

17 BY MS. KEARSE:

18 **Q.** Good morning, Mayor.

19 **A.** Good morning.

20 **Q.** I've got some water for you right there if you need
21 that.

22 **A.** Thank you.

23 **Q.** Mayor Williams, will you please introduce yourself to
24 the Court?

25 **A.** My name is Steve Williams. I'm the Mayor of

1 Huntington, West Virginia.

2 **Q.** Mayor, how long have you served as the Mayor of the
3 City of Huntington?

4 **A.** Eight years and six months today.

5 **Q.** Can you tell the Court when you were sworn in as Mayor?

6 **A.** Sworn in on January 1st, 2013.

7 **Q.** And can you tell the Court how long have you been
8 serving in regard to terms?

9 **A.** This is -- I'm in the middle of my third term.

10 **Q.** Mayor Williams, can you provide the Court with a little
11 bit of your background? And let's start -- where, where
12 were you born and where did you grow up?

13 **A.** I was born in Bluefield, West Virginia. I lived in
14 Athens, West Virginia, until I was 16 years old. My father
15 was a professor and coach at Concord. And when he quit
16 coaching, he went on to work on his doctorate at VPI.

17 When he completed his doctoral course work, he was
18 offered a job in Huntington at Marshall University. And we
19 moved to Huntington and have been there ever since.

20 **Q.** And did your mother also teach in Bluefield?

21 **A.** Mom was an elementary schoolteacher, taught in the
22 Mercer County Schools and she made her way through there.
23 Then she ended up teaching at Bluefield State College -- or
24 for a while before we moved to Huntington.

25 When we moved to Huntington, as I indicated, dad was at

1 Marshall. Mom taught in the Cabell County Schools in
2 elementary education. And I went to Huntington High School,
3 graduated from there.

4 When I was in Mercer County, I lived in Athens, went
5 to -- transferred to Princeton so that I could play sports.
6 Athens was an awfully small school. And I went to Princeton
7 High School. And then when we moved to Huntington, I went
8 to Huntington High School, then on to Marshall on a football
9 scholarship after the crash.

10 **Q.** You played, you played football in high school and you
11 continued that into --

12 **A.** If there was a ball, I was, I was participating. I
13 played football, basketball, track, ran base -- played
14 baseball in the summers, baseball and basketball, whatever.
15 Like I said, wherever there was a ball, I was right there.

16 **Q.** You mentioned that you went to Marshall. Can you tell
17 the Court, when did you graduate from Marshall and what did
18 you study?

19 **A.** I studied political science and graduated in 1978.

20 **Q.** And you graduated cum laude?

21 **A.** Cum laude, yes.

22 **Q.** And, Mayor, after Marshall University, did you continue
23 your studies?

24 **A.** Yes, I got my Master's Degree in public administration
25 up at WVU.

1 **Q.** And can you tell the Court a little bit about
2 additional education in addition to your Master's that you
3 did over the years?

4 **A.** Well, I continued developing my, my career. I guess
5 we'll talk about that a little bit later. I became a
6 financial advisor and went through all the training and
7 licensing for that.

8 But much later in my life and in my career, after I had
9 moved away, I moved back to Huntington. And circumstances
10 were such that I became part of a study group called
11 Education for Ministry that the Episcopal church has within
12 its local churches through the University of the South.

13 And the first, the first year of study was the study of
14 the Old Testament. The second year of study was the study
15 of the New Testament. The third year was of church history.
16 The fourth year was theological thought.

17 It wasn't truly a seminary course of study. It was a
18 course of study that had a lot of reading, no tests, no
19 papers. But the whole idea was to lift up lay ministers
20 within, within the congregation.

21 **Q.** Were you at that time looking to go into the ministry?

22 **A.** No. I contemplated that when I was first starting my
23 career. And I came to understand that giving sermons wasn't
24 all that what a minister was about, that you had to meet
25 people at their highest and lowest points. And I thought

1 maybe my calling should be more of a public service realm.

2 **Q.** Let's talk about your public, your public service. Can
3 you tell the Court what you did after you received your
4 Master's in administration? Take us a little bit through
5 your work career before becoming Mayor.

6 **A.** Well, it's ironic now. When I first got out of
7 graduate school, I was an intern at the City of Huntington
8 for the City Manager. It was -- interestingly, it was a man
9 named Dick Barton who grew up in Bluefield and was the City
10 Manager in Huntington. I worked with him for a couple of
11 years.

12 Then Putnam County started establishing -- or had
13 established a Putnam County Development Authority and
14 Economic Development Organization and I was hired to be
15 their first Director of the Putnam County Development
16 Authority working in Putnam County for a few years.

17 We had had a great level of success and we know how
18 much Putnam County has been growing for the last 40 years
19 anyway. And we had a great deal of success. And the folks
20 in Huntington saw what was being done in Putnam and they
21 said, "Well, we should be doing that too."

22 And I was recruited back to Huntington by then the City
23 Manager to be -- to build an economic development program
24 within the city government. I did that for six or seven
25 months and --

1 **Q.** Can you give us a time frame for that too, Mayor?

2 **A.** Oh, that was in 19 -- well, I was in Putnam County from
3 1981 to 1984. Then in 1984 I went into Putnam -- or went
4 back to Huntington.

5 Six months into -- six to seven months when I was in --
6 back with the City of Huntington, the City Manager took
7 another job as the City Manager elsewhere. And then I was
8 offered the job to be the acting City Manager, the youngest
9 City Manager in the history of Huntington at the time. I
10 was only 28 years old.

11 And I became -- they took the acting title away on the
12 very day that Governor Moore was sworn in for his third term
13 interestingly. And I served as City Manager through the end
14 of 1985.

15 That was when the City of Huntington decided, or
16 members of the community said they wanted -- instead of a
17 city manager form of government, thought it was more
18 important to have a more politically oriented administration
19 and chose to go to a strong mayor form of government.

20 And I left at the end of that, at the end of that year
21 when the new mayor came in. And at that point, I embarked
22 on a career of finance.

23 **Q.** And, so, can you tell the Court about after leaving as
24 City Manager what was your career path at that point in
25 time?

1 **A.** At that point, interestingly, I was -- had been
2 weighing whether to go to law school or not and had been
3 accepted into WVU and was seriously looking at that. And a
4 couple of things happened simultaneously.

5 Your Honor, I think you're well aware in West Virginia
6 legislators are part-time legislators. I was approached by
7 some in the community to run for the State House of
8 Delegates at the time.

9 Simultaneously when I left City Hall, I went to work
10 with an investment bank out of Pittsburgh. And our
11 specialty was underwriting public finance issues, bond
12 issues and things such as that. I was with them up through
13 1990.

14 Simultaneously I got elected to the House of Delegates,
15 served four terms in the, in the House of Delegates. But in
16 1990, the tax laws started to change, wasn't able to finance
17 as many projects through bond issues as you were previously.
18 And I switched over into the brokerage business.

19 And then that would have been in '91 or so. And then I
20 was in that occupation until I ran for Mayor in 2012. I was
21 in the legislature, as I indicated, for eight years and left
22 the legislature in 1994.

23 **Q.** And did you continue for a term in the investment
24 banking and actually --

25 **A.** Well, in the brokerage business at that time. And then

1 I started developing my business. I started out as a
2 producer, as a stockbroker, if you will, within the Bank
3 One -- then the Bank One which became the Chase system.

4 And then I started changing jobs throughout the coming
5 years with Bank One. I was in production from '93 up
6 through '98. In '98 I changed and started training other
7 brokers how to build their business and started moving up
8 the system.

9 I was working in Cincinnati and Louisville and, and
10 Lexington for a few years. Then I was asked to move to
11 Chicago to run the Chicago market. We had, we had a
12 wholesale. We had a package product company of one group,
13 and I was a wholesaler for that and helped promote the sales
14 of those products through our brokers.

15 But at the same time, simultaneously I was trying to
16 help the brokers be able to learn how to develop their
17 business. And I was -- I was moved to Chicago to run that
18 market and ran the market for Bank One Securities.

19 **Q.** And then you came back to West Virginia?

20 **A.** Then I found my way back to West Virginia. There was a
21 couple of other positions with -- I left Bank One and was
22 recruited to go to Citizens Bank out of New England which
23 was buying a bank in the midwest and they were looking for
24 somebody to run their investment program in Illinois,
25 Michigan, Indiana, Ohio, and part of Pennsylvania.

1 I found my way back to, to West Virginia and then moved
2 to Huntington Banks and was managing West Virginia, Western
3 Pennsylvania and Eastern Ohio for, for the investment firm
4 with Huntington Banks, and then was doing that up until the
5 point where I decided to run for Mayor.

6 **Q.** And, Mayor, have you previously run for Mayor? There's
7 part of that that I probably need to have you talk about a
8 little bit.

9 **A.** That's something that we really don't like to ponder
10 about. It was a rough experience.

11 I ran for Mayor in 1993. I was nominated to run in the
12 general election. And to this day, I've never looked at the
13 results. All I know is I lost. And it's just something
14 that -- but the --

15 As an aside, since we are smiling here, Jean Dean beat
16 me. And then when I became Mayor, which would have been --
17 let's see. It was in '93. Twenty years later I took her
18 out to dinner on June 1st on the night that she beat me just
19 to show that everything is fine. I got there when --
20 eventually when I was supposed to.

21 The one thing I didn't mention -- excuse me for
22 bouncing all over the place, Your Honor. Before I was --
23 ran for Mayor, I was on Huntington City Council for 40 years
24 as well. And that was really -- I had been out of public
25 life from 1994 up to 2008 for 14 years.

1 It's one of those times that I thought, well, I'll -- I
2 feel like I can do something to help the community. I'll
3 dip my toe in the water and just kind of -- and I've learned
4 something about myself is that I can't dip my toe into
5 anything. If I go in, I go in head-first.

6 And, so, when I was finishing that term, I came to the
7 conclusion that if I'm going to be this involved, I might as
8 well be running the city, not just being a member of
9 council. So that's when I decided --

10 **Q.** What was, what was the term? Was it a four-year term
11 with City Council?

12 **A.** Yes, four-year term of 2008 to 2012. And then in 2012
13 I ran for Mayor and have been elected, as I indicated, three
14 times. And I'm in the middle of my third term now.

15 **Q.** So how long have you lived in Huntington now?

16 **A.** 49 -- it will be 49 years in August.

17 **Q.** And, Mayor, why did you decide to spend most of your
18 life in, in Huntington?

19 **A.** Well, it's home. My family is there. And -- when I
20 first -- when I first moved to Huntington, something very
21 special happened. I was only 16 years old when I moved.
22 It's a volatile time for a young person.

23 And there was something about the community that
24 reached out and embraced me, embraced my family. And it's
25 been, it's been that way ever since. And Huntington is

1 home.

2 I found when I was in Chicago, I felt like I was gone
3 but I never left. And I guess this is how we are in West
4 Virginia. We are always connected to, to what's at home.
5 And when I had the opportunity to be able to come home, I
6 didn't have to think twice about it.

7 **Q.** I want to talk a little bit more about your, your
8 public service. But are you currently a member of any
9 organizations or community organizations within Huntington?

10 **A.** In Huntington I'm quite active at Marshall. I'm a
11 member of the alumni association. As I indicated, I went to
12 Marshall on a football scholarship. There was a letterman's
13 club called the M Club. And I'm a past president of the, of
14 the M Club.

15 I'm active in the community. We have, as I
16 indicated -- well, we're active in two churches in our city,
17 Fifth Avenue Baptist Church where I've been a member since
18 the, the early '80s. And my wife is a member of Trinity
19 Episcopal Church. And she and her family had grown up there
20 and that's where we were married, and our children have been
21 baptized and each of her parents were laid to rest.

22 Interestingly, the two churches are right next to one
23 another and it just seems to be a nice eclectic mix for us
24 in our, in our church life and in our spiritual life.

25 Interestingly, in each church they want to know, well,

1 what are you or who are you. And I lovingly say that I've
2 determined that I'm a Bapcopalian (phonetic).

3 **Q.** Mayor, I'd like to spend some time now as, as -- when
4 you are Mayor and focus on your time in regard to your
5 service as Mayor of the City of Huntington.

6 Mayor, did you assist in putting some slides together
7 that can help with your testimony but also provide the Court
8 with some background information?

9 **A.** Yes. There are a few things that kind of show some
10 milestones over the last eight and a half years.

11 MS. KEARSE: Your Honor, may I approach?

12 THE COURT: Yes.

13 BY MS. KEARSE:

14 **Q.** Looks like you have a lot of things up there. I
15 apologize. There's a lot of spreadsheets. I'm not
16 going to go through spreadsheets with you.

17 **A.** So it's okay for me --

18 **Q.** Yes, yes.

19 **A.** Good.

20 **Q.** No spreadsheets.

21 MR. RUBY: Your Honor, I'll just note -- and I
22 don't know quite what to do with this. We got this slide
23 deck night before last. And I think that if, if we had a
24 jury over here, we would certainly object to handing out or
25 displaying pictures of the Mayor going to church or the

1 Mayor meeting with important people to sort of bolster him
2 with this kind of imagery in the eyes of the jury. It
3 looked almost like a campaign ad to me. We'll just note an
4 objection to it and the Court can do with it as it sees fit.

5 THE COURT: Well, your objection will be preserved
6 in the record. I'm going to go ahead and let him go
7 forward.

8 MS. KEARSE: Thank you, Your Honor.

9 THE COURT: I don't think I'm going to be unduly
10 influenced, Mr. Ruby.

11 MR. RUBY: I agree, Your Honor.

12 MS. KEARSE: For the record, I think these are
13 some milestones that the Mayor wanted to talk about and
14 certainly not a campaign slide deck.

15 BY MS. KEARSE:

16 **Q.** Mayor, when did you officially start your term as
17 the Mayor of Huntington?

18 **A.** January 1st, 2013.

19 **Q.** And have you been recognized for your service as the
20 Mayor of Huntington?

21 **A.** I don't understand what you mean by recognized.

22 **Q.** I'm sorry. Have you been named Mayor of the Year by
23 the West Virginia Municipal League?

24 **A.** I'm active in the West Virginia Municipal League and I
25 think it was 2016 I was named Mayor of the Year.

1 **Q.** Okay. I want to talk a little bit about the structure
2 and the main departments within the City of Huntington. Can
3 you tell the Court a little bit about how the City of
4 Huntington is, is made up?

5 **A.** As I indicated, Your Honor, the Mayor now is the CEO of
6 the city. Each of the departments answer to the Mayor. We
7 have, naturally, police department, fire department. We
8 have a public works department. We have the planning and
9 zoning department.

10 They're unique in that they are also listed in the
11 charter as having special boards, the planning commission
12 according to state law and the board of zoning appeals, but
13 they still answer within the administration.

14 We have -- certainly we have a finance committee. We
15 also have -- or finance department. We have -- separate
16 from that, we have some associated boards of which I am a
17 member or chair. There's a water quality board that runs
18 the storm water utility, as well as the sanitary board and
19 the sewer system. I'm the chair of that.

20 And we also have a Municipal Development Authority
21 which is responsible for economic development for the, for
22 the city. We have a board of -- I believe it's 15
23 individuals. I'm a member of that board. I'm not the chair
24 of it.

25 By state law, they're independent to be able to do

1 certain things, but we do hold that strong partnership. And
2 the city does pay for part of the salary for the individuals
3 that are there.

4 I don't think I've missed any. It's a pretty wide
5 range. We have a parking authority and such as that.

6 **Q.** What are your main roles and responsibilities as Mayor,
7 big picture?

8 **A.** Well, I'm responsible for the, for the fiscal health of
9 the city, running the city and its, and its finances. Each
10 of the department heads run or respond or report to me, the
11 police chief, the fire chief. Each of the department heads
12 are tasked with running their department, but the person who
13 has the ultimate responsibility for what happens in any of
14 the departments is the Mayor.

15 **Q.** And you set out provisions that --

16 **A.** The Mayor -- well, that -- what I just explained is
17 what the charter expects. Realistically, what the Mayor --
18 I see that my role is as Mayor is to identify -- to
19 articulate a vision for the city, to build consensus around
20 that vision, and then start building on the vision.

21 **Q.** Do you regularly collaborate with your department
22 heads?

23 **A.** Very regularly. We have normally scheduled meetings
24 and then as often as, as necessary.

25 **Q.** Mayor, you mentioned that you're in charge of the

1 financial stability and health of the community. Do you
2 also oversee public health and public safety issues within
3 the community?

4 **A.** Interestingly, public health involves everything.
5 Public safety is principally towards police and fire, but
6 public health leans into public works.

7 If we're not picking up the garbage, it's certainly not
8 a healthy environment. We're -- if properties aren't taken
9 care of, it's not a healthy environment. And then the
10 public safety naturally is providing police protection
11 within the neighborhoods, and for the fire department to
12 protect the property of the citizens and within the
13 community.

14 **Q.** As part of the financial oversight that you provide to
15 the city, can you -- does that involve a budgeting process?

16 **A.** Well, every year I'm expected to bring a budget
17 estimate. The charter states that by February 15th of each
18 year I'm expected to bring a budget message to council and a
19 budget recommendation.

20 The budget has to balance at the end of the year. If
21 it's not balanced, the Mayor and the members of City Council
22 will be held personally responsible for that under penalty
23 of law.

24 So we begin in earnest in developing our budgets in
25 November to December. And then in January we're in full,

1 full board. And I bring by February 15th of each year a
2 message that really describes where we are fiscally, fiscal
3 strength, fiscal condition of the city, but also projecting
4 where are we going to go in the, in the coming year, but
5 also outlying -- outlining a five-year capital plan as well,
6 not just what we're about to do now but where we are going.
7 And that certainly assures that, that we're keeping the
8 future in mind at all times with what we're doing.

9 **Q.** Mayor, where do the funds come from that you're
10 budgeting?

11 **A.** We have, we have about 40 -- 30 to 40 different revenue
12 sources. I never remember the, the exact number. But the
13 big ones are we have a business and occupation tax, the only
14 business tax that we have.

15 We, we also have a sales tax that the legislature
16 allowed us to enact a few years ago. That's proven to be
17 quite stable.

18 We also have a series of fees. The legislature is very
19 restrictive in what cities, municipalities can, can do to
20 raise money or to acquire money to, to provide their
21 services.

22 And what the legislature has permitted is -- and the
23 courts have, I guess, affirmed is the proper way of saying
24 it, is that if there are certain services that require
25 fees -- for instance, we have a municipal service fee that,

1 that charges a per square foot amount -- a per square foot
2 charge on property, on all, all property within the city.
3 That pays for the fire department.

4 We have a user fee that individuals who work within the
5 city pay \$5 a week. Actually, it's called generally user
6 fee. It's stated within the accounting, probably within the
7 ordinance and on the accounting ledgers as a city service
8 fee. The \$5 a week helps, helps pay. It doesn't pay it
9 all. It helps pay for the police department and helps pay
10 for, for paving.

11 **Q.** Let me ask you this. You mentioned the deficits and
12 not going into deficit. Can you tell the Court a little bit
13 about how you prevent yourself from going to a deficit and
14 maybe discuss just briefly about surplus, what that means in
15 the budgeting process?

16 **A.** Well, the first thing you do, you definitely don't want
17 to find yourself headed to a deficit and you're always
18 looking and projecting forward.

19 With our revenues as we are right now, if we're
20 continuing through the year, is the spending occurring
21 within the department where they're going to stay within
22 their budget? And if it appears that we are about to
23 overspend our budget, then we have to start making
24 adjustments through the year.

25 Early while I was on City Council and in my early

1 years, it was commonplace in the middle of the year to be
2 reviewing, see where we were, and then issuing an order to
3 scale back, reduce the spending in departments by a certain
4 percentage to be able to balance.

5 A surplus has some interesting parts it comprises. A
6 surplus would appear at first is just not, not spending
7 everything that's coming in. But we're also required to
8 have, for instance, a landfill closure account for Workers'
9 Compensation. We have to have a balance that is set aside
10 that is always -- can be relied upon if revenues aren't able
11 to cover the landfill or to cover for the Workers' Comp
12 claims or other insurance.

13 **Q.** Health programs?

14 **A.** Pardon me?

15 **Q.** Health programs?

16 **A.** Insurance and such as that. So oftentimes -- this
17 wasn't -- interestingly, Your Honor, Huntington was known
18 for having a really sad state of financial affairs. There
19 was a time before I became Mayor people were saying, well,
20 the city is on the verge of bankruptcy. We had a triple B
21 plus bond rating, not the best in the world. But it was a
22 rating, nonetheless.

23 What I came to observe is that from an accounting
24 standpoint, if you take those assigned funds, have them
25 listed as part of the, of the cash reserves with the, with

1 rating agencies, that that strengthened the financial
2 picture or outlook or the financial view of the city.

3 So when I became Mayor, we moved some of those over
4 into the area that was known as surplus. Before I became
5 Mayor, it was not unusual to see the administration spend
6 down to right next to the next penny that they had down to
7 less than \$100,000 which would be frightening.

8 When we moved over, at least with -- once again, with
9 the rating agencies and anybody that was seeking to do
10 something with banks, we could see there was some financial
11 strength that was there that otherwise wasn't being shown on
12 the books.

13 But beyond that, it also helped us, but we still had
14 the responsibility of making sure that we're not spending
15 down to the nub. And what's important is to try to build
16 some level of surplus looking -- if I could give an example,
17 just, just -- this is Wednesday morning. Right?

18 Monday night we had a council meeting, and we had I
19 think three separate items on the council agenda where I was
20 having to deal with building retaining walls where going
21 up -- if you've been in Huntington, going up 8th Street hill
22 to the, to the museum, part of the hillside where some new
23 houses had been built was starting to cave in. We're having
24 to build a retaining wall which is costing several hundred
25 thousand dollars. There's another -- out Norway Avenue

1 there's a road that's slipping, starting to give way.

2 We have, we have those that are occurring. I think it
3 came to about \$2 million that we were having to appropriate
4 just in the one council meeting.

5 If those things happened in the middle of the year, if
6 you don't have that reserve, then you're going to have to go
7 in to cut other departments to be able to, to carry that.

8 When I was on City Council, there was -- with the
9 previous Mayor, inside Cabell-Huntington Hospital, if you
10 were coming in looking at Cabell-Huntington Hospital and
11 over to the right, to the south of Cabell-Huntington
12 Hospital there's -- up on the hillside there are a bunch of
13 houses up on the hillside. That whole hillside came down in
14 a bunch of rains that we had.

15 The city was having to respond to it and looked to see
16 what could be done with insurance and such. But they were
17 having to dig into their own -- into our own coffers at that
18 point. I don't remember the specific details because it's
19 been a number of years.

20 But we were having to move money out of other
21 departments in order to cover because there weren't proper
22 reserves there to be able to help assure that we could
23 respond to the unexpected expenses.

24 **Q.** So is it fair to say that in the budgeting process as
25 well sometimes you're having to -- are there some tough

1 decisions you have to make in the budgeting process at
2 times?

3 **A.** Well, if you're not willing to make the hard decisions,
4 you have no business being in office.

5 **Q.** And have hard, have hard decisions come in various
6 departments including the police department and the fire
7 department or public works?

8 **A.** Well, in 20 -- very specifically -- we've had hard
9 decisions in all departments. I indicated at the very
10 outset there were times in the middle of the year we would
11 find that we would have to reduce budgets just to make sure
12 that we were carrying on, able to make sure that we weren't
13 coming anywhere close to a deficit.

14 But we had a, a perilous situation that developed in 20
15 -- January of 2017. As we were looking at what needed to be
16 done, there was -- we have a 55-million-dollar budget and we
17 were projected to have a six-million-dollar deficit.

18 And needless to say, we all were in a world of hurt.
19 And, honestly, my general philosophy was that -- two,
20 two-fold. If the department is overspending their money,
21 they've got to be responsible for fixing it. They had two
22 departments, and I was going to them to say, "We've got to
23 find a way to be able to fix this."

24 The last thing that we were ever going to do -- and
25 some were saying the first thing to do, but that's just not

1 the way that I seek to do -- I think any of us should be
2 doing business in government. Some were saying, well, just
3 raise taxes. Raise some fees. And that just made
4 absolutely no sense to me. And I was just saying that -- I
5 didn't even want to say that's a last resort. We've got to
6 find a way to be able to get there.

7 Very long story short, yes, I had to make the decision
8 to lay some police officers and fire fighters off. I think
9 it was 24 total that were laid off.

10 What was being proposed to me at first was to lay off
11 40, 50 police officers, 50, 50 fire fighters. And that was
12 just a death wish and there was no way we were going to do
13 that. And we just kept pressing. We've got to find another
14 way to do this.

15 What we had seen for a few years before that is that
16 there were some problems with our public safety pensions
17 that we needed desperately to fix. We hadn't been able to
18 get those fixed yet.

19 And our healthcare plans. We had been negotiating an
20 adjustment of our healthcare plan for about a year and a
21 half and couldn't come to an agreement among the employee
22 groups as to how to change it.

23 Well, finally, I saw with, with my legal counsel that I
24 had the, the authority to enter into an agreement with our
25 healthcare to adjust our healthcare plan, but it had to be

1 made by a certain date.

2 I made the decision, made the decision that we would
3 make adjustments on how we calculate pensions. It raised a
4 lot of angry voices. They had since found that what we were
5 doing was not taking anything away from anyone, just making
6 sure it was calculated properly.

7 Long story short, we laid off 20 some fire fighters and
8 police officers. Fortunately, we had hired some fire
9 fighters and police officers who were still probationary.
10 We, we, we removed them from the positions.

11 And at the end of the fiscal year, we didn't have a
12 casual deficit. We actually had a small surplus. And,
13 interestingly, by the end of the -- because of the, the
14 savings that we received from our healthcare changes,
15 because of the savings that we were receiving in our pension
16 calculations, we were able to offer every one of those
17 police officers, probationary police officers and fire
18 fighters we were able to offer their job back by December.
19 Now, they all didn't agree to come back. Many of them found
20 other jobs anyway.

21 But I guess the point is that we had hard decisions to
22 make and we made them and the city is stronger financially
23 fiscally as a result of it.

24 **Q.** Mayor, when -- can you give the Court some examples --
25 and we'll get into more detail later. But if you don't have

1 enough money in the budget to meet community needs, are
2 there other vehicles to obtain funds for various projects or
3 specifically to help you run your departments?

4 **A.** Well, one of the things -- we always go for grants.
5 One of the things that we did because -- needless to say, we
6 have three unions within the, within the city, Your Honor.
7 We have the AFSCME union, the police union, and the fire
8 fighters union.

9 Because we had to lay off some, some fire fighters, we
10 went and partnered with our fire fighters union to get
11 what's called a safer grant. A safer grant gives you a
12 grant to be able to hire additional fire fighters and use
13 that grant, but you have to commit that you're going to have
14 them for a certain period of time. We did that.

15 Oftentimes the grants require matches. And those,
16 those matches might be up to 20 percent of whatever the
17 grant is.

18 We also became unbelievably aggressive of philanthropic
19 foundation support on, on things that, that we were doing.

20 Last, last check I think, I think when we were having
21 our depositions last year, it was in the 35-million-dollar
22 area. I think it's now present day over \$40 million of
23 grants that we've been able to receive for all departments
24 within --

25 **Q.** To help run --

1 **A.** To help us advance our mission.

2 **Q.** And you also partner with other federal and state
3 organizations, for example, through law enforcement?

4 **A.** Well, in, in law enforcement we partner with the entire
5 alphabet soup; DEA, ATF, the FBI, U.S. Attorney. We have a
6 strong partnership there with each of the previous U.S.
7 Attorneys.

8 We don't have -- we don't have that. I mean, frankly,
9 what I've said time and again is that the citizens of
10 Huntington -- I don't want to appear too righteous about
11 this, but this just makes sense. Citizens of Huntington pay
12 city taxes, taxes to the county, to the state, and to the
13 federal government.

14 So we should have a layer on all layers, particularly
15 law enforcement, of support. So we have the city, we have
16 the county, we work with the sheriff, and have partnered
17 with the sheriff on various law enforcement issues, state
18 government, the State Police partner with us, and then the
19 federal marshals. As I said, the ATF, DEA, Appalachian
20 HIDTA, FBI.

21 And we have various task forces. And those task forces
22 we review every single year because sometimes they will take
23 some of our police officers and assign them to the Task
24 Force. Sometimes there will be others from other
25 jurisdictions that will come in to be supporting us in

1 their -- in our mission and the overall mission of the Task
2 Force. We review that every year. Sometimes it's more.
3 Sometimes it's less. It depends upon the agency of what,
4 what their goal is or what their strategy is as to how to
5 move forward.

6 We found there were some times that they were building
7 cases. And as they were building those cases, we could
8 start to see that it was taking an awful long time and we
9 needed to be able to see right now, there's some action.
10 Right now we would partner with some other federal agencies
11 so that we're not interfering with the federal case that is
12 taking some time to build its -- the federal agency that's
13 taking time to build its case, but we're able to make sure
14 that we're continuing to be aggressive on, on our side in
15 other areas.

16 **Q.** Mayor, I want to spend a little bit more time on the
17 communication and outreach on that. So is it fair to say
18 that communication and outreach is an important job of the
19 Mayor in the city?

20 **A.** Well, as I said, I see that the Mayor's mission is to,
21 to identify a vision, articulate that vision, and build
22 consensus around it. If you're not -- you've got to let
23 folks know what you're -- the direction that you're wanting
24 to go and then start building consensus as to how we are
25 actually going to go in that direction. So communication

1 has to be -- certainly has to be the key.

2 **Q.** And how do you communicate with members of your
3 community?

4 **A.** Well, the budget message is, is one. It's -- the way
5 we do it is it's a budget message to council, but it becomes
6 what we call the State of the City Address and points out
7 just where we are certainly making our way into the
8 community.

9 We have -- what was built in the mid 1990s was
10 something that was brilliant. It's a series of neighborhood
11 associations. And those neighborhood associations -- the
12 whole idea is to get the neighborhoods to lift them up so
13 that they can take care of their neighborhoods.

14 I really believe strongly government shouldn't be doing
15 everything. There are those that say -- well, I remember
16 growing up saying there ought to be a law on a cartoon.
17 There ought to be a law. Not necessarily always. Sometimes
18 it just takes common sense.

19 And sometimes it takes just the neighborhood reaching
20 out and having pride within its own, in its own area and for
21 the community to take pride in its own area, shouldn't
22 expect the city to do everything.

23 But one thing that we did do that was novel, a lot of
24 mayors in Huntington and I've seen elsewhere will have open
25 houses where individuals will be able to come to the Mayor's

1 office, don't have to have an appointment, just come in and
2 sign up, get in line, and talk to the Mayor.

3 You may have heard, Your Honor, several years ago
4 Huntington was -- received a label as being the most
5 unhealthy city in the nation, most obese, the most unhealthy
6 city in the nation. That kind of frosted the back sides of
7 a lot of us.

8 It may have had some level of truth in it, but we
9 weren't going to sit around and say, no, we're not going to
10 do -- no, that's not true. Quit crying about it and do
11 something about it.

12 Well, it hurt me. Rather than having everybody have to
13 truck down to City Hall on a given evening or afternoon and
14 sit there in the Mayor's office or wherever to wait to sit
15 to see the Mayor, why don't we accomplish a couple of
16 things. Why don't we just get out into the neighborhoods
17 and start walking, novel, with the neighborhood and let them
18 show us what their concerns are.

19 Today we have nine council districts. We would arrange
20 it in each council district. Now we're well over 70, well
21 over 70 walks that we've made. But what we do is when we go
22 out there, they'll say, "Here's a pothole. This sidewalk
23 needs to be fixed. How about that house? Why are you
24 letting them get by with not mowing their lawn when my lawn
25 is immaculate? Aren't you going to do something about

1 that?" Oh, and they'll say, "That's a stash house. They
2 sell drugs out of that house."

3 When we go out, it's not just me. I bring my police
4 chief, my fire chief, or if they're not available, their
5 command -- members of their command staff. I'll bring my
6 public works director. Sometimes we'll bring housing
7 inspectors. I'll have -- oh, heavens, it's, it's
8 practically the entire administration with me. But they're
9 able to eyeball very specifically --

10 **Q.** And you learn about the various concerns of the
11 citizens?

12 **A.** Yes.

13 **Q.** Mayor, do you also frequently communicate with the
14 County Commission and other community cities and --

15 **A.** Well, one, one of the county commissioners is on our
16 Municipal Development Authority. His name is -- county
17 commissioner Jim Morgan. I think he's the president of the
18 commission right now.

19 We serve -- we have an animal shelter and an animal
20 shelter board where the city, Cabell County, and Wayne
21 County have members on it. The presidents of each of, of
22 the, of the County Commissions are board members on the
23 animal shelter. We talk to them.

24 But collaborating -- most of it's informal. One thing
25 that -- I don't want them coming over and telling me how to

1 run my house and I'm sure not going to go over and tell them
2 how to run their house. But we're always, we're always
3 collaborating with one another, particularly on economic
4 development issues.

5 As I indicated, the police chief and the sheriff are in
6 constant communication and we find ourselves as members of
7 the same task forces. If we feel that we need some help on
8 something, the sheriff and his deputies will come in. But
9 also the flip is true. If they're out in the county, we go
10 and help them as well.

11 **Q.** Mayor, I want to talk specifically about why we're here
12 today and talk about what you began to observe as you became
13 Mayor and prior to that as well.

14 But can you tell the Court a little bit about as you
15 became Mayor and your conversations or your work with law
16 enforcement and what did you do to understand what was going
17 on in your community?

18 **A.** I understand you had a chance to meet Chief Holbrook.
19 He was the Chief of Police when I first became Mayor. Chief
20 Holbrook and I have known each other for a very long time.
21 His -- interestingly, it's the two degrees of separation
22 within West Virginia. His dad was my football coach in high
23 school.

24 Chief Holbrook, Chief Holbrook and I met regularly and
25 he would provide us with reports and updates as to what was

1 going on. I think -- I believe -- well, I don't want to
2 overstep myself, but I think it may have been brought up in
3 Chief Holbrook's testimony, provided threat assessments as
4 to state of affairs and --

5 **Q.** Let me ask you -- I'll back up a second with that.

6 When you became the Mayor, did you have confidence in the
7 law enforcement department that you were about to oversee?

8 **A.** Well, the police department's known, widely known. And
9 the U.S. Attorney came in and made it known to everyone who
10 would listen, Mr. Goodwin, that the Huntington Police
11 Department was considered the top law enforcement agency
12 serving in the Southern District of West Virginia.

13 What we were seeing and what we were observing and what
14 the, the aggressiveness of the police department, the
15 professionalism of the police department was gaining it as
16 a, as being known as -- within the region as one of the top
17 law enforcement agencies.

18 So I had the ultimate confidence in the police
19 department that I truly trusted the judgment and the advice
20 of Chief Holbrook and his command staff.

21 **Q.** And did Chief Holbrook make you aware of some growing
22 concerns regarding diversion of prescription drugs as you
23 entered your Mayorship?

24 MS. WU: Your Honor, objection to hearsay. The
25 witness is being asked to testify to what he was told by

1 Chief Holbrook.

2 THE COURT: Well, it is hearsay. I'll sustain the
3 objection. I'm sure you can get at it another way,
4 Ms. Kearse.

5 BY MS. KEARSE:

6 **Q.** Mayor, as part of your -- when you arrived as
7 Mayor, what were some of the first actions that you took
8 in order to perform your job on behalf of the City of
9 Huntington and overseeing the various departments of the
10 City of Huntington?

11 **A.** Well, when -- as I indicated, I met regularly with each
12 of my department heads, clearly with, with the police chief
13 and the fire chief to see what the on-going threats and
14 concerns were.

15 Chief Holbrook -- the leadership team within the
16 command staff of the, of the police department helped me to
17 understand that we had a serious problem of proliferation of
18 opioid prescription pills as, as well as heroin, but they
19 were saying that this was something that was very serious.

20 MR. RUBY: Your Honor, object to the hearsay. I
21 don't think that the Mayor, notwithstanding the fact that he
22 certainly has met with these folks, can come in and say they
23 said X, Y, or Z and put that hearsay into the record. Chief
24 Holbrook has already been here and testified as to his
25 understanding of what was happening in the community.

1 THE COURT: Well, I think he can say what he did
2 to find out what was going on in the city and then he can
3 say what his impressions and his state of mind was without
4 specifically saying what he was told. I think that's
5 permissible and he can do it.

6 MR. RUBY: I, I don't dispute that, Your Honor.
7 It was that last bit -- I don't have the real-time in front
8 of me, but that last bit where the Mayor testified "they
9 said" and then there was a phrase after that. It was the
10 "they said" that I think was hearsay.

11 THE COURT: That's hearsay and I'll sustain the
12 objection to that specific part.

13 But I can see where you're going with this, Ms. Kearse,
14 and I think he can certainly, as the Mayor of the city,
15 testify as to what his state of mind was with regard to the
16 problems that existed in the city.

17 Do you want to say anything else, Mr. Majestro?

18 MR. MAJESTRO: Your Honor, that was the exact
19 argument I was going to make.

20 BY MS. KEARSE:

21 **Q.** Mayor, in your official capacity and the official
22 capacity of the chief of police and chief of fire and
23 others, did you have meetings and provide official
24 reports to assist you in mayoring [sic] your city?

25 **A.** Let me make sure that I say this appropriately.

1 **Q.** I'll couch it as everything in your official capacity
2 and, and --

3 **A.** Understand.

4 **Q.** -- and explaining things in others' official capacity.

5 **A.** I had several meetings, constant meetings with Chief
6 Holbrook and the command staff certainly within my first, my
7 first year.

8 It became apparent to me as a result of, of my
9 inquiries that we had a problem of -- with opioid pills
10 being distributed illegally, a heavy abundance of opioid
11 pills being distributed within the community and had heroin.

12 I understood that it was a growing problem. But, once
13 again, I'll point out what I was saying before. I had
14 absolute faith in our police department and the level of
15 partnership that they had with other federal agencies, while
16 they didn't have it under control, I wouldn't want anyone
17 else other than them to be dealing with the issue because in
18 my mind, it was a police issue, a law enforcement, public
19 safety issue, and our police needed to have all the support
20 that we could muster to help them.

21 **Q.** Mayor, did you go out into the community with law
22 enforcement and fire also to see for yourself what was going
23 on in your community?

24 **A.** In -- yes. At one point, Chief Holbrook had left.
25 Chief Holbrook did provide us a threat assessment that

1 really raised the alarm early. I was, I was in office for
2 about a year, so it was January of 2014. In 2013 I
3 understood that there was a problem. I felt that our police
4 department and the strategies they were employing were, were
5 what we needed to be, to be taking this on.

6 After Chief Holbrook left for his new job in Columbia,
7 South Carolina, I was asked to come in and observe a SWAT
8 team. It was in the -- near 20th Street in Huntington and
9 Ninth Avenue.

10 And what we had been advised is that, from what I
11 understood, that there was, there was going to be a raid the
12 next morning because there had been a really large shipment
13 of heroin had been delivered to this one household, or to
14 this one address. I think it was 500 grams of heroin. I
15 might be wrong on that.

16 What I do know is that I had never, ever seen anything
17 like this. I'd never been on a SWAT raid, never sat nearby
18 when massive arrests were about to go. And I went with,
19 with the SWAT team as they were preparing before, early in
20 the morning, getting their last-minute instructions, going
21 down, assembling at the top of the hill on 20th Street,
22 driving down to the, to the address.

23 We were in a, obviously, a separate vehicle a safe
24 distance back. And I saw them come up to the house, form a
25 wedge to be able to go in and knock the door down and be

1 able to get in that house, again expecting there was going
2 to be a huge delivery of heroin that we were going to be
3 able to intercept.

4 I was -- I don't know that I necessarily need to go
5 into this. I was just scared witless because I saw the
6 danger that our officers were in. Fortunately, nobody was
7 in there. But when they went in, I found out that what had
8 been delivered at 11:00 the night before -- again, I think
9 it was 500 grams -- there was only 35 grams left in the
10 house. Overnight 465 grams had been distributed.

11 **Q.** Mayor, as a result of, of that and your threat
12 assessments that you received from Chief Holbrook, what did
13 you start doing on behalf of the community?

14 **A.** Well, my, my sense of urgency just really just went --
15 skyrocketed. I came face-to-face with -- as I understood --
16 as I understand, each gram has about ten hits of, of heroin
17 that are being used. Now, if that's the case, that means
18 thousands of hits were being distributed throughout the
19 community.

20 It helped me understand this wasn't -- that we had a
21 serious problem with addiction. There was a market. There
22 was a market here and we had to do what we were --
23 everything that we could to try to take that on.

24 But, interestingly, at the same time while that was
25 occurring, what was so perplexing to me is I started

1 having -- and this just doesn't happen. I started having
2 emails, texts, people stopping me in the street, stopping
3 and saying, "Mayor, you've got to do something. We don't
4 feel safe in our neighborhood."

5 Now, that just -- I didn't understand that because we
6 had the strongest law enforcement agency in the region and I
7 thought they had -- they said these drug dealers are coming
8 through and they just -- we just -- somebody needs to do
9 something.

10 So I'm hearing that on one side. Then I go to a raid
11 and I observe the SWAT team and find out that there's, there
12 are hundreds of grams that have been distributed overnight.
13 I knew at that time that this was beyond anything that I
14 really ever, ever imagined. I thought I had been advised
15 and had an appreciation as to what was being done --

16 MR. RUBY: Your Honor, --

17 THE COURT: Just a minute.

18 MR. RUBY: I'll just object to the hearsay as to
19 the hundreds of grams being distributed overnight. I don't
20 think the Mayor had any personal knowledge or observation of
21 that.

22 My understanding from his testimony is that someone
23 else told him that they were anticipating a shipment of
24 500 grams, and when the law enforcement actually got to the
25 house there was a much smaller quantity there. But I don't

1 think the Mayor has any personal knowledge that 400 grams
2 were distributed.

3 THE COURT: Mr. Majestro.

4 MR. MAJESTRO: This is classic effect on the
5 listener. We're not offering it for the truth of the matter
6 asserted.

7 THE COURT: Well, yeah. He's talking about --
8 he's describing his state of mind, his impressions. And I
9 don't think -- I'll overrule the objection. Go ahead.

10 MR. RUBY: And just so I understand Mr. Majestro's
11 position, if it's not being offered for the truth of the
12 assertion, we just want that to be clear on the record.

13 THE COURT: That's what I asked him. You're not
14 offering it for the truth. You're offering it to show what
15 the Mayor's state of the mind was, his understanding of what
16 the problem was. And then I assume you're going to ask him
17 what he did about it.

18 MS. KEARSE: That was my very next question, Your
19 Honor. And I'll add that it's, it's also all in his
20 official capacity and information that he's received in his
21 official capacity.

22 THE COURT: I'll overrule the objection.

23 THE WITNESS: So as we were, as we were -- as I
24 was absorbing what, the information that I was becoming
25 aware of the state of affairs, that it was much worse than I

1 ever, ever imagined, I was immediately reaching out to the
2 then acting police chief and the command staff, "What are we
3 doing? We've got to step this, this up."

4 Earlier, Your Honor, I pointed out that I have come to
5 learn that on some federal investigations they would be
6 operating extremely slow, and not that they were doing
7 anything wrong, but they were very carefully and slowly
8 pulling together, pulling together their case.

9 What I started finding in this instance is that there
10 were instances where within the Task Force they were
11 observing drug deals and such, but nothing was being done.

12 In the meantime, our neighborhoods were beginning to
13 crumble. And we've got to step up. And I was pressing.
14 We've got to do something and said we can't interfere with
15 the Federal Task Force. They're our partners. And I was
16 pressing saying, "Well, we've got to be able to do something
17 so that we can, we can show in our neighborhoods that we're
18 acting."

19 And I couldn't imagine that the, our federal partners
20 were seeking to tie our hands from being able to protect our
21 citizens. Let's figure a way to, to do something.

22 Well, interestingly, there were several warrants that,
23 that were left unfilled. And one of the first things that
24 we had -- and I think this was in early August. It would
25 have been 2014.

1 BY MS. KEARSE:

2 Q. That's what I was going to ask you. Did you reach
3 out to other folks?

4 A. This is what we were doing. We, we had -- one morning
5 we were having a raid, a round-up of all warrants that were
6 out there related to drug trafficking within, within the
7 city. And we had city police, county sheriffs, State
8 Police. We had federal agencies, ATF, and others there.

9 What we did is we, we gathered at the -- about 7:00 in
10 the morning at the city arena in the large arena, had one
11 full side in the, in the bleachers full. And everybody was
12 convening there. And at one point, everybody there went out
13 and started serving the warrants and started arresting
14 everyone. It was to the point that I believe it was
15 reported that there is a bus that would go --

16 Q. Let me ask you this. Is there a time when you started
17 going from your -- looking from arresting people to changing
18 how you looked at what was going on in your community?

19 A. Well, right after that, there was something else that
20 happened because I was thinking this is, this has got to be
21 a police, police issue. We had the raid. Within --
22 simultaneously we had developed a program within ourselves,
23 among ourselves called River to Jail.

24 The River to Jail initiative in essence was making sure
25 that we weren't doing anything that interfered with a

1 Federal Task Force investigation. But I think that the law
2 enforcement term was knock-and-talk, that they would come
3 in. And we -- in that, in that period we were finding the
4 low-level distributors and sellers and such. And we had
5 over 200 arrests in a 90-day period.

6 Now, Your Honor, I was feeling pretty good because I
7 thought they're getting the message not to come in, not to
8 come in here.

9 We, we started receiving communication from other --
10 the biggest concern for neighboring counties in West
11 Virginia and in Ohio saying, "Well, are you just going to be
12 pushing them out into our area?" And I said, "Well, no. We
13 all need to be joining together and just -- as we're
14 punching them in the nose, then you're there to punch them
15 in the nose."

16 And I was just feeling -- I thought that we were doing
17 something pretty special and pretty big. But what I came to
18 understand --

19 **Q.** That's going to go into the next part --

20 **A.** I'm sorry.

21 **Q.** That's okay. There's a lot to say on that.

22 I'd like to move into what you did as you started
23 reaching out to other officers and, and really coming to
24 what you put together as the Court has heard about, some of
25 your policy and organizations and groups that you put

1 together to --

2 **A.** Well, as this, as this was happening, there was some
3 violent crime that was occurring, shootings that were
4 occurring. There was a lot of concern being raised within
5 the community. Somebody needs to be doing something.

6 We thought that we were doing something with the River
7 to Jail. And then as I indicated, we saw over 200 people
8 being arrested. But the, the distribution continued. They
9 just kept coming in and kept selling more stuff, again
10 because there was such a high level of addiction.

11 **Q.** I'd like to talk about that. Did you reach out to, to
12 the National Drug Control Policy to --

13 **A.** Well, actually, as this was occurring, we had a
14 congressman, Nick Rahall, at the time and he reached out to
15 the Director of the -- Mike Botticelli who was the Director
16 of the National Office of Drug Control Policy.

17 He came in -- he came in in the middle of -- in early
18 October to meet with us. And we took him to show him some
19 recovery facilities, show him where -- we had an assembly of
20 about 25 or 30 people to have a conversation.

21 This picture is part of the tour with -- Mike
22 Botticelli is on the right and Congressman Rahall is on the
23 left. And we were showing them, in essence, what we were
24 doing and what we were facing.

25 What we, what we started seeing is that as we were

1 dealing with this is that you can start bringing different
2 parties together, but it felt -- it started to feel like
3 this is much more than just a law enforcement issue, that --

4 I came to -- I came face-to-face, Your Honor, with the
5 saying that we all -- I imagine you have heard -- is that
6 you can't arrest your way out of this. There are other
7 things that have, that have to be done.

8 I was at a loss as to what those other things were.
9 And we were talking with Director Botticelli about it and
10 our interdiction efforts, our law enforcement efforts. But
11 he was pointing out partnerships within the community.

12 That was what I came to understand, was that
13 partnerships within law enforcement, partnerships within the
14 community had to be, had to be established.

15 And the first area that we started reaching out to in
16 large measure is just the nature of the, of the community
17 and the, and the partnerships that we had created, we
18 reached out to the faith community.

19 There's a group, Your Honor, of pastors for several
20 years, not just with me but with previous mayors, have met
21 with public officials on a regular basis, two meetings a
22 month. They'll come meet with each of us individually and
23 it's -- they're not coming in to proselytize or anything.
24 It's just there to offer an ear and to pray with us. It's
25 helpful.

1 And then we get together as a community group talking
2 about issues that we're dealing with and how our faith -- I
3 went to the -- I went to the, to the ministers because what
4 I was hearing when I was going to some of these groups,
5 there was one thing that I kept hearing individuals saying.
6 And, frankly, it kind of aggravated me. I just felt like
7 they were giving up.

8 People were saying, well, you've got to have
9 prevention, intervention, treatment, law enforcement. But
10 they would always qualify, but there's no silver bullet.
11 And they would always come back, there's no silver bullet.

12 And it just felt to me like they were saying, well,
13 we've got to do these things, but there's no silver bullet.
14 We're just lost here.

15 And I'm the nature that you've got to name the problem.
16 If you name the problem, you own it. And I felt like that
17 we had to come out and aggressively state that we have a
18 serious, serious level of addiction in our community and
19 that we have to join together to be able to, to fight this.

20 And what I said -- I was meeting with these pastors and
21 I said what if, what if we -- if you would help us bring all
22 of the churches together on one day in September, and then
23 we would be able to just have a brief prayer in your
24 service.

25 I just -- this gets a little personal for me. But I,

1 I've found in most difficult times, prayer has been
2 enlightening to me and certainly comforting to me.

3 And I know the nature of our community. It's a
4 conservative, faith-based community, certainly not everyone,
5 but there's something -- there is a compassion within our
6 community.

7 And I said to the pastors, I said, "What if all we
8 would do is just offer a prayer, just a brief prayer in your
9 service at the same time that would just pray for the
10 delivery of those who are fighting addiction, that they
11 would be delivered out of opiate addiction, protection of
12 our law enforcement officers, and then also a prayer for
13 those who are engaged in a life of crime pedaling this stuff
14 that they be delivered from that."

15 I was asked to -- the pastors thought, you know, this,
16 this might, this might be something that we could be able to
17 communicate with our other fellow clergy members.

18 **Q.** Did you set a certain time period for that to happen?

19 **A.** We set it for September 7th -- that was the first
20 Sunday in September in 2014 -- at 11:05 a.m. The reason was
21 that if you attended a church that started at 11:00, by the
22 time of the procession and everything, 11:05 might be a good
23 time for it, or if you were at -- like one of my churches
24 starts at a quarter till. By the time you get to the
25 pastoral prayer, it would be an appropriate time.

1 What I ended up learning is that the Jewish community
2 on their Friday did night prayers and Saturday morning
3 prayers, they included that there. On the Muslim community,
4 on their Friday afternoon prayers invited me to come to be a
5 part of, of that with, with them.

6 All I did was I asked -- I was asked to send an email
7 out and do a quick video that said -- the pastors said,
8 "Mayor, they need to hear your voice and what, the passion
9 behind it."

10 I did a quick -- I had somebody who was able to film
11 it. I did a very quick video and attached it to the email.
12 And I gave it to five pastors. That's it. There was a
13 Pentecostal pastor. There was a Presbyterian pastor, a
14 Baptist pastor, an Episcopalian pastor, and a
15 non-denominational pastor.

16 And I gave it to them and I asked them at first just if
17 there is something theologically or spiritually offensive
18 about this, let me know. I don't want to do more harm.

19 They all came back indicating they thought it was
20 something that could be helpful. They shared it with their
21 fellow clergy. They shared it within their congregations.

22 The reason September was is that's National Recovery
23 Month and I thought if we do it on September 7th on that one
24 Sunday -- what was amazing -- what we started finding out,
25 we knew that several churches in the Huntington area were

1 going to participate, but the entire churches throughout the
2 region started worked receiving communication from, from
3 pastors, from others, started learning that it had spread
4 around the world; started getting letters from, from Egypt,
5 from South America, Europe. Some of them I had to find
6 somebody to be able to interpret what was being written.

7 What was so absolutely amazing to me and affirming
8 about this is that of all the languages around the world
9 that people were participating in this, there were three
10 words, there were three words in every language that they
11 were using: Huntington, West Virginia.

12 And what I came to understand as we moved, as we moved
13 on this is, this is how the community started to embrace
14 that we have to stand, that we have to stand together.

15 As I said, if you name it, you own it. And, and
16 principally what our message was was that everyone has to
17 have an assignment. I had individuals calling me, Your
18 Honor, saying, "Well, what can I do?" Some would say -- and
19 I don't mean any offense of this to anyone who might -- "I'm
20 just a housewife. What do I do?" As a housewife, there's
21 many things that you can do.

22 "I'm only a high school student. What can I do?" I
23 said, "Well, what's your passion? What is your passion? Is
24 it sports? Is it the arts? Is it in your church?"

25 But everybody, everybody has to -- everybody has to

1 have an assignment. And what we started seeing as we were
2 moving forward is that the community started coming together
3 and somehow we needed to make sure that that community was
4 coming together in such a way that it wasn't just, wasn't
5 just a tea party where you're getting together and there was
6 no substance. We've got to have something that was embraced
7 by the community.

8 MS. KEARSE: Gina, I think if you can just go
9 quickly to 3 and 4.

10 BY MS. KEARSE:

11 **Q.** And these are just two photographs I think. Was
12 this the September, first Sunday when you got members of
13 your community together in Huntington that eventually --
14 just tell us --

15 **A.** Yeah. This was on September 7th. And, interestingly,
16 that's my church. But there is something instructive about,
17 about this picture on the left.

18 Your Honor, if you notice, right behind me there is a
19 blondish, light-haired woman. And to her right, our left,
20 is an older gentleman. And immediately to their left, our
21 right, there's another couple that are bowing their heads,
22 one man balding and his wife just to the side.

23 What's instructive about this is that it shows the
24 extent of what we were dealing with. The couple on the
25 left, their grandson died of an overdose, opioid pills.

1 The couple on the right, same thing with their son died
2 from an overdose of pills.

3 The bald-headed man that you see came in to meet with
4 me. We've known each other for years. And he came in with
5 me and he was as angry as you could ever, ever imagine and
6 just -- he needed somebody to yell at. And he was saying,
7 "Why aren't we doing more?"

8 And I felt myself starting to feel a little defensive.
9 And I -- wait a second. My responsibility as Mayor is also
10 to listen when people's hearts are hurting.

11 What's amazing is that the grandparents and the parents
12 each have started their own individual ministries within the
13 church and other churches for individuals who have lost a
14 loved one as to how they can come together and be able to
15 provide helpful support.

16 And it's just -- what I was encouraging them and what
17 I've been encouraging so many families that come in, that's,
18 that's I guess the hardest part of this is, is dealing with
19 the family members who have lost someone and they're,
20 they're lost. They're saying, "What can we, what can we
21 do?"

22 And what I've come to understand is that we've got to
23 find a way to be able to give them a channel to be able to
24 be active in the community. You heard me say earlier this
25 isn't something that, that city government can do or county

1 government can do. Government can't answer everything. The
2 community has to reach out. The community has to reach out
3 and, and embrace these issues and be able to address them.
4 And that was the -- what we were -- it was a -- well, it's
5 been, as you might imagine --

6 **Q.** I want to --

7 **A.** These recent years have been awfully emotional.

8 **Q.** So I want to go to some of the other things that you
9 did aside from reaching out to the churches and the faith
10 community. I want to talk about some other partnerships
11 that you also worked with.

12 Gina, if we can --

13 THE COURT: Ms. Kearse, we need a -- it's break
14 time if you're at a stopping place.

15 MS. KEARSE: This is perfect, Your Honor.

16 THE COURT: Okay. We'll take about 10 minutes.

17 Mayor, you can step down during the break.

18 (Recess taken at 10:27 a.m.)

19 THE COURT: Mayor, you can resume the witness
20 stand, sir.

21 MS. KEARSE: I'm just looking for Gina, Your
22 Honor, our technical person.

23 THE COURT: You can't live without the technology
24 now.

25 MS. KEARSE: Even if it was just a picture, I was

1 going to go ahead and start, but I figure it's a good way to
2 kind of go in the next direction.

3 BY MS. KEARSE:

4 **Q.** So, what I would like to do is spend the next little
5 bit of time just talking about now what, as the Mayor of the
6 City of Huntington, did you do in order to deal with some of
7 the issues we have talked about this morning, as well.

8 So, the judge has seen Chief Rader and Scott Lemley, but
9 can you tell the Court, what is this picture, and let's talk
10 about the Mayor's Office of Drug Control Policy.

11 **A.** This is -- these are the members who I appointed as
12 members of the Mayor's Office of Drug Control Policy. It
13 came -- everything -- as I have gone into excruciating
14 detail, Your Honor, so many things have been happening at
15 once, recognizing that with the law enforcement efforts of
16 trying to arrest as many arrests as we were -- we were
17 having, we were finding that it didn't seem that anything
18 was slowing down.

19 You might recall, Your Honor, that Director Botticelli
20 had come in to meet with us and the way he interacted with
21 everyone was quite compelling to me and came with a meeting
22 -- to the far right was Jim Johnson, who had been serving as
23 our acting Chief of Police and, for just a few months, our
24 Chief of Police, until I had a permanent Chief in place.
25 He's retired from the police department. Certainly, well

1 known within the community.

2 I was meeting with him and I said, well, why don't we
3 -- why don't we create our own Office of Drug Control Policy
4 and asked him to serve as the director of it. He was on the
5 verge of retiring and I encouraged him to stay, lead this
6 effort.

7 We asked Scott Lemley to be a part of it because he was
8 a crime analyst in the Police Department and we -- one thing
9 that we knew was that we needed to have current data.

10 You had a chance to meet Jan Rader, as well. She was
11 just a Captain at this time. She is also a registered
12 nurse. I had observed her personally because she was --
13 when she wasn't on shift as a -- as a fire -- as a member of
14 the Fire Department, she was working in the emergency room
15 at Cabell Huntington Hospital.

16 I had occasion to see her in action because my dad, who
17 has since passed, was brought into the emergency room a few
18 times and I saw how compassionate she was in dealing with
19 him, calming him down, and then also my mother, who was just
20 scared witless as to -- and just to see how -- and it
21 occurred to me and, particularly, was learning that she was
22 dealing with a lot of overdoses within the emergency room,
23 as well, and I thought these -- these three might be able to
24 help.

25 The reason I asked and I wanted to create the Office of

1 Drug Control Policy, I was becoming -- beginning to feel
2 overwhelmed in this regard. With all the law enforcement
3 efforts that we were having, with the actions that were
4 developing within the community, individuals were starting
5 to call me, oddly enough, not just from within the county,
6 but outside the county, even in Ohio and Kentucky and
7 throughout Southern West Virginia, and they were asking
8 what's next? What's next?

9 And I remember standing there in my office by myself
10 and I thought, just kind of aimlessly looking at the
11 bookcases, and I thought I don't have enough -- I don't have
12 enough time in a day to do all that has to be done and we've
13 got to go out and start reaching out to others and start
14 bringing folks together.

15 And then I remembered what Director Botticelli was
16 doing and I thought maybe we ought to just do that here in
17 our community. So, we created the Office of Drug Control
18 Policy and they started in earnest in December and then
19 started going out within the community to meet with others.

20 They pulled together two strategic plans. 2015 was
21 their first effort. And December and January, December of
22 '14 and in January of '15, as they were going around meeting
23 with so many different groups, what we started finding is
24 that it wasn't that there was a lack of effort to deal with
25 the -- with the level of opiate addiction. It was just

1 there was -- there was a lot of -- a lot of different groups
2 doing things, but the left hand didn't know what the right
3 hand was doing.

4 And I was encouraging -- because they were asking me,
5 well, what -- what do we want? What is this supposed to be
6 doing? And I said, well, get out there and start talking
7 with everybody. Start building a sense of community among
8 those who are -- who are involved and the answers will start
9 to tell themselves.

10 **Q.** So, as part of their role, did they -- they eventually
11 went out to the community and --

12 **A.** Yes. They went through the community and the first
13 strategic plan in 2015, in essence, saying we've got to
14 focus on prevention, intervention, treatment and law
15 enforcement. But the only way that we do it is that if
16 everybody who is involved starts linking together.

17 The other report was that in 2017, for two years, as
18 active as we had been, we knew -- I will never, ever -- you
19 will never hear me say mission accomplished because there's
20 still so much more, still so much more to do, but the
21 efforts that we made with the '15 strategic plan, the
22 direction that was being created in the '17, 2017 strategic
23 plan, was laying the framework for the community to be able
24 to come together.

25 Because remember the admonition that I was mentioning

1 earlier, Your Honor, is I kept saying to anybody who would
2 listen, you have to accept an assignment. It wasn't just
3 the children, or the teachers, or the housewives, or -- it
4 was also the hospitals, the university, the medical centers,
5 the health departments, the businesses in the community.
6 And that's, in essence, what this group pulled together.

7 **Q.** And, Mayor, if you can tell a little bit about the
8 partnerships. Let me back up.

9 So, you put these offices together and this is an
10 office run by the City of Huntington and also embracing your
11 community to work with you on this?

12 **A.** Our goal -- our goal was to reach out as the -- this is
13 not something I took to City Council. This is not an
14 official agency that was created. It was very specifically
15 stated the Mayor's Office. Felt like it had to have the
16 mayor's name on it, not the Williams Office. The Mayor's
17 Office.

18 And, in essence, what we came to understand is that we
19 had to not say anybody had to do something, but the best way
20 to lead oftentimes is to get people to agree to make those
21 decisions themselves. And what we started seeing, clergy,
22 education, healthcare, certainly law enforcement, all
23 started swimming in the same direction.

24 **Q.** And when you testified that part of the role of the
25 Office of -- Mayor's Office of Drug Control Policy was to

1 collaborate and deal with prevention, treatment, recovery.
2 Can you tell the Court, why was that important for the
3 Mayor's Office to be involved in that process and what it
4 did for the community?

5 **A.** We -- the one -- somebody -- I've had occasion to --
6 for a lot of different groups come in and look at what we
7 are doing. Somebody needs to take the lead. It doesn't
8 have to be a mayor, or the Mayor's Office, but somebody
9 needed to.

10 Circumstances were such in Huntington we were uniquely
11 positioned to be able to do that. It could have been in
12 some other community. It could have been a leader of a
13 physician community. It could have been somebody from a
14 neighborhood. It could have been an education leader.
15 Somebody needs to step forward.

16 But the Office of Drug Control Policy knows that this
17 is something that is born of the city. We were leading
18 these things and then encouraging folks along -- along the
19 way.

20 **Q.** And was part of the role of the policy to actually look
21 at, for example, treatment and promoting the fact, one, you
22 need treatment and you need more treatment and you need more
23 -- the ability to -- for the medical community to help with
24 that, as well?

25 **A.** Yes. We had to -- what we started seeing is that the

1 Health Department became very active. They were interested
2 or felt that with some of the issues in the City, that a
3 Harm Reduction Program needed to be put in place, a Syringe
4 Exchange Program.

5 This was not something that the City was doing itself.
6 It was something that the Health Department and its Board
7 was charged to do, but we were very much partners in the
8 introduction and development of that.

9 The university, and one of the advantages that we have
10 in the community is when you have a university sitting right
11 down the street with the intellectual and the research
12 capability to be able to utilize that. We saw that the
13 university stepped forward and started providing some
14 leadership.

15 Even in the hospitals, the hospitals found themselves
16 even partnering with the faith community. I think there was
17 a group called Faith United that -- of pastors that came
18 together that were saying we really don't know how to deal
19 with these issues.

20 Your Honor, what -- I had one pastor say, say to me,
21 the only thing I know to do is say, well, I'll pray for you.
22 They needed -- they felt they needed to develop skills to be
23 able to address these issues not just for someone who was
24 fighting Opiate Use Disorder, but for the families that are
25 -- that are being affected.

1 The emergency room at the hospitals, the emergency room
2 started providing us realtime data through this as we were
3 working with Emergency Medical Services. We knew we had to
4 have realtime data. The problem was with the Centers for
5 Disease Control, with the information that they provide,
6 it's really frustrating, Your Honor, when they were telling
7 you what has happened two years before.

8 How in the world are you able to effectively respond to
9 a threat within a community when you're dealing with
10 two-year-old data? My background is in the investment
11 world. We have the most active, largest economic system in
12 the world. Yet, publicly traded companies manage to report
13 their earnings on a quarterly basis, but we can't receive
14 realtime health data except every -- every two years. It
15 says more about how broken the system is and that's kind of
16 off of this subject.

17 **Q.** What I'd like to focus on is what -- what the Mayor's
18 Office of Drug Control Policy, what did you do with the data
19 and what foundation did you lay for the community in regards
20 to prevention and treatment?

21 **A.** Well, we -- we -- as I indicated earlier, we started
22 going after grants right and left and it wasn't -- sometimes
23 they were grants that the City would pursue. Oftentimes,
24 they were grants that the university or the hospitals or
25 from different foundations for the different groups within

1 -- within the community where we would provide -- we would
2 provide the leadership.

3 As I indicated, there are a lot of things that have
4 been pointed out the City is not paying for, for this.
5 Well, that's never been the intention. The intention was,
6 was to move the community.

7 Your Honor, there's a -- there's a formula that works
8 in my mind that is very simple, is that collaboration leads
9 to partnerships. You collaborate and you start to create
10 partnerships. Then you establish a level of trust.

11 The outcome, not the tactic, the outcome ends up being
12 hope. What we're trying to do is find a small ray of hope
13 within the community, going through all that we are doing in
14 our struggles, in the death, in the chaos, trying to find a
15 small ray of hope.

16 What the -- Mayor's Office of Drug Control Policy
17 helped us lay a foundation so that we would be able to move
18 forward within a community.

19 **Q.** Were you able to build a Community Action Network?

20 **A.** Yes, and there's -- I've lost the number of how many
21 different organizations there are.

22 **Q.** We can go through some of those.

23 **A.** Okay.

24 **Q.** And so, I'll go quickly. Were you able to address the
25 issues that you set out to address on addiction within your

1 community, at least to work -- start working towards some of
2 the solutions?

3 **A.** Well, we were having individuals who were saying that
4 we were the epicenter of the opioid epidemic and that just
5 kind of smacked pretty hard. And the more we continued to
6 work on what we were doing and identifying different
7 solutions, we could see the attitudes within the community
8 started to shift. And it was fascinating to see how many
9 individuals considered themselves a full participating
10 partner in addressing the opioid epidemic.

11 **Q.** And you're able to, it sounds like, establish
12 partnerships within a community, state and federal?

13 **A.** Well, we had -- we had -- certainly, we had -- well,
14 yes, at the state and the federal level. It went from City
15 Hall, to county courthouse, to the Governor's Office.

16 And throughout the governor's -- when Governor Justice
17 became Governor, he created his own, with the legislature,
18 the Governor's Office of Drug Control Policy and the
19 gentleman who was in that group, Jim Johnson, Your Honor,
20 who was part of our Mayor's Office of Drug Control Policy,
21 was hired away from the City to be the State Director of
22 Office of -- Office of Drug Control Policy.

23 **Q.** Mayor, is the -- we -- the previous slide, we had two
24 strategic plans in place and I believe those are in evidence
25 and we can go through those another time, but did they set

1 out findings and the information provided through the data
2 and investigations and community outreach of what needed to
3 be done within the community and help move it forward?

4 **A.** Well, what they did is they set information in place
5 and brought the community together in a collaborative
6 fashion to where the City of Solutions plan that was, in
7 essence, authored by Marshall University.

8 This was one of the examples, Your Honor, that I --
9 that I believe is when you start to see that what we were
10 doing laying the foundation, the university started to say
11 they were accepting their assignment. They had research
12 that was available to be able to start identifying and
13 defining how do we continue to address this problem. And
14 then the Resiliency Plan even rose out of that.

15 What you -- as you look at everything that we have
16 encountered over -- over the years, certainly from the very
17 first times that I started learning about what we were
18 facing in the community, you can see a constant evolution of
19 thought, of deed, and structure as to how we -- how we were
20 doing it.

21 And what's so fascinating, I believe, in our community
22 and, again, we still have so much work to do, but a
23 foundation has been laid where, Your Honor, the way that
24 I've said it is that what has amazed me is that we have had
25 people hiding in plain sight, leaders hiding in plain sight

1 to step forward to take action on things.

2 Lyn O'Connell, who spoke earlier, was one who just
3 became a breath of fresh air because of her intellect and
4 what -- and her passion. And so many other individuals at
5 the university and the hospitals and throughout the
6 community. Clergy.

7 **Q.** So -- so, taking it through, is it fair to say that the
8 Mayor's Office of Drug Control Policy led a lot of the
9 foundation to a lot of the programs that were instituted
10 throughout the community that was -- that's discussed in the
11 City of Solutions?

12 **A.** The Mayor's Office of Drug Control Policy helped lay
13 the foundation for all -- for all of the -- for all of these
14 things.

15 **Q.** And in collaboration with various partnerships
16 throughout the community?

17 **A.** Well, and this was -- that was what the Office of Drug
18 Control Policy did. There was one point where you had to --
19 the Office of Drug Control Policy brought other groups
20 together so that they were moving forward on their own and
21 they didn't need the impetus of others and we created the
22 opportunity for collaboration throughout the community.

23 **Q.** And then you mentioned the Resiliency Plan and, just
24 briefly, can you tell the Court, the Court has heard some
25 things about the Resiliency Plan, but is this an ongoing,

1 moving forward, looking forward type of document?

2 **A.** Well, it's -- it's not defining where we've been. If
3 I've learned anything from COVID, if you want to know, you
4 have to evaluate where you've been in order to know where
5 you're going. With what we have encountered in the last
6 seven years and have experienced through COVID, even the
7 Resiliency Plan is pointing in the direction of where we go.

8 The two things that I'm always pressing for is for a
9 program to be replicable. It doesn't have to be exactly the
10 same way, but if we're doing something that is highly
11 successful here in Huntington, how can it be replicated in
12 another community?

13 It's very important to me, particularly throughout
14 Appalachia, that there are communities that are able to say
15 look what we can do. So, it's not just being replicable,
16 but it also has to be sustainable.

17 The hardest thing in the world is, is that when we have
18 a program that is successful, wondering, well, how are we
19 going to continue to fund -- to fund this? And that's what
20 the Resiliency Plan is, is to help us determine how are we
21 going to be able to have a sustainable effort on this?

22 Fortunately, what we have established in Huntington is
23 an unbelievably talented network of individuals and I
24 believe that what -- what we have present there is you start
25 to look at the history over from where we started from

1 scratch establishing what we are able to do.

2 This is a -- well, you're looking at this. I think
3 there are, what, 15 different groups there. Every one of
4 those groups -- the City of Huntington is listed. So, there
5 are 15. All of those are different groups that we've
6 partnered with through the Mayor's Office of Drug Control
7 Policy. It's not to say that any of us have done something
8 that nobody else has. And some of them are broadly stated
9 community groups.

10 **Q.** And this -- and so, what we're showing, Mayor, this is
11 the Cabell County Commission, the City of Huntington, and
12 the ability to work with various partnerships in order to do
13 what you've done today and to actually move into the future?

14 **A.** Well, yes. And this is where community solutions is
15 stated so well. The last thing in the world that we need is
16 for somebody from Washington to come in and tell us, now,
17 this is what you need to do.

18 I've had meetings with those folks and some of them are
19 fairly high ranking and I think you've come to see that I'll
20 be a little blunt or direct. And I said if you think you're
21 going to come here and tell us what we need to do, you can
22 stop right now. What I'm looking for is a partner. If
23 you're willing to come in here and partner with us -- and
24 it's amazing. When you're pretty direct with those folks
25 right up front, they seem to fall in accord and respect what

1 we are able to do locally.

2 **Q.** And just briefly, Mayor. I mean, this talks about
3 community groups, and local schools, and recovery centers,
4 and universities, and hospitals. You mentioned Marshall
5 Health. But this is a collaboration of the -- of Cabell
6 County?

7 **A.** Yes.

8 **Q.** And how they're dealing with the opioid epidemic?

9 **A.** It's amazing, yes. Local business leaders, where
10 business leaders are taking it upon themselves. All right.
11 How can they create economic opportunity for those
12 individuals who are coming through recovery and in treatment
13 to be able to have a job to provide some stability within
14 their life.

15 The Marshall School of Medicine, and Marshall Health,
16 and the Mountain Health Network, each of those bring
17 resources, certainly, but what they also bring is capacity,
18 but they also bring capability within their professional
19 structure to be able to address these issues.

20 **Q.** Mayor, have you also, in addition to what we had the
21 outreach within the community, also been involved in
22 outreach with other organizations in cities and counties to
23 -- to discuss your experiences and, just very briefly, if
24 you could tell the Court some of those organizations?

25 **A.** Well, I'm quite active in the National League of

1 Cities, which is an accumulation of cities representing over
2 19,000 cities across the nation. Actually, they reached out
3 to us and asked us early, early on to be part of the
4 National Opioid -- National City/County Opioid Task Force
5 made up of ten representatives from counties, ten
6 representatives from cities.

7 One of the county commissioners from Mercer County was
8 on it. I don't need to enter his name in the record, but
9 I'm sure, if you're down in Bluefield, you know who he is.
10 He was on it.

11 And we had ten representatives of cities and I was one
12 of three mayors. The Mayor of Little Rock, the Mayor of
13 Dayton and I were mayors and we came with recommendations.
14 A member of the U. S. Conference of Mayors.

15 And I used to be a Co-Chair of the Committee on
16 Substance Abuse with the Conference of Mayors. The Co-Chair
17 was the Mayor of Boston and now he's the Secretary of Labor
18 in the Biden Administration. I'm the Chair of that
19 Department -- of that Committee right now.

20 As a result of those, we've been invited to participate
21 in Task Forces to give us technical support as to how we're
22 able to -- to proceed forward, but it's not just technical
23 support. Oftentimes, it's everyone in here from their
24 professional knowledge knows that if you come and you're
25 collaborating with professionals elsewhere in your -- in

1 your field, you take to them what your -- expertise you've
2 developed, but you walk away with a heck of a lot more.

3 And, as a result of that, we've been invited to be a
4 part of programs and several universities at NYU, Georgetown
5 University, O'Neill Institute in -- I think it's within
6 their law school. Indiana University, the School of --

7 **Q.** So, you continue to reach out and collaborate with --

8 **A.** Yes.

9 **Q.** -- with others and --

10 **A.** Stanford. And I'm sure I'm missing a couple.

11 **Q.** Mayor, we've talked a lot throughout this trial about
12 the devastation the City has experienced and the community
13 as a whole in Cabell County, but over the course of your
14 time in Huntington and in your capacity as the mayor, have
15 you observed people who have become successful in overcoming
16 their addiction through treatment and resources offered by
17 the community?

18 **A.** Yes. There's one -- so many. I mean, that's -- that's
19 the encouraging aspect of this when you do see individuals
20 who have been at the lowest point in their life and then
21 when they have been able to go on and develop.

22 There was one man that came in to meet with us at City
23 Council and he showed us a picture of him and here he was,
24 he was in a highly professional suit, well groomed, very
25 articulate, and he showed a picture that looked like Haiti

1 frozen over and he said this was the lowest day of my life.
2 This is when I was arrested because of my involvement with
3 opioids. And when I look at what he has done and with so
4 many others, it's -- it's affirming that what we are doing
5 is the work of the angels.

6 **Q.** Mayor, you've dedicated most of your life to public
7 service and, obviously, the City of Huntington and Cabell
8 County. Has it been rewarding work as you've been mayor
9 even in the face of what you've testified about today?

10 **A.** It's been the most rewarding experience that I've ever
11 had, but it's also the most heart wrenching.

12 Your Honor, when I -- I became mayor, I never, ever
13 dreamed that this would be something I'd be dealing with.
14 It's not my -- it's not my forte. That's not my background.

15 But the one thing that I learned in my family is
16 there's some times you're called to lead. And my parents,
17 with my brother and I, taught us you are expected to lead.
18 Not an opportunity. You are expected to lead.

19 We saw what was happening here and the beauty of it is,
20 is that when you lead and it's channeled in the proper
21 direction, then individuals start to line up to be
22 supportive. And we have a loving, caring, compassionate
23 community. And what I've also learned is that we have a
24 loving, caring, compassionate state and nation. And that's
25 where that little ray of hope survives for me.

1 **Q.** And, Mayor, as we sit here today, does Cabell County
2 and the City of Huntington still need resources and the
3 ability to move forward in order to deal with this opioid
4 epidemic?

5 **A.** My biggest fear is, is that what -- what happens if we
6 can't take care of this? Do we just -- are we in a
7 perpetual cycle of just continuing with this? You'll notice
8 I said earlier replicable and -- not resilient. Well, so
9 that we can be able to -- sustainable. That's absolutely
10 necessary for us to -- somehow to be able to move forward.

11 What is -- what Huntington and Cabell County has done
12 is beyond -- beyond measure, but when we're talking about
13 resources, I'm not looking for a money grab. All I'm
14 looking for is the capacity to be able to make sure that my
15 community can heal. And I believe that we are demonstrating
16 that we are in that direction.

17 But the truth is, addiction is highly fragile. We've
18 experienced an uptick in overdoses through COVID. We were
19 up 14 percent last year. Our overdoses are on track of
20 being more than what we had last -- last year. I think,
21 last year, we had 999 overdoses. I don't -- this is an --
22 I'm not trying to enter something into the record. So,
23 please --

24 **Q.** Let me ask you this. Is there an ongoing opioid
25 epidemic in the City of Huntington and Cabell County as we

1 sit here today?

2 **A.** It's -- we -- we fight it every -- every day.

3 **Q.** And is there a vision and hope that an abatement plan
4 or strategic plans that can be put in place will bring about
5 some closure to the opioid epidemic within your community?

6 **A.** We must have the capability of being able to move
7 forward. We're active in going after grants. That's a
8 piecemeal that's working in half shares.

9 We need resolution to this. And the way that we
10 resolve it is having the -- being able to say to these folks
11 in Huntington is that you go, you do what you're capable of
12 doing, and let's set a system where we're able to see that
13 the resources can be afforded to do just that; nothing else,
14 but to do just that.

15 **Q.** To focus on the opioid epidemic?

16 **A.** Opioid epidemic, just that.

17 MS. KEARSE: Mayor, I have no further questions.
18 Thank you very much.

19 THE COURT: You may cross examine.

20 MR. RUBY: Thank you, Your Honor.

21 **CROSS EXAMINATION**

22 **BY MR. RUBY:**

23 **Q.** Good morning, Mr. Mayor. How are you?

24 **A.** Doing well.

25 **Q.** I was looking over the transcript of the deposition,

1 which is the last time we had a chance to spend some time
2 together, and noticed that it was exactly a year ago today
3 that we were able to spend a few hours together in
4 Huntington. It seems impossible, but it's true.

5 **A.** Happy anniversary.

6 **Q.** Happy anniversary to you.

7 Mayor, you've been here for several days of this trial,
8 correct?

9 **A.** Yes.

10 **Q.** And you were here for the opening statements?

11 **A.** Yes.

12 **Q.** So, you know already that nobody in this room is
13 disputing that there's been an opioid problem in Huntington
14 or Cabell County, right?

15 **A.** That's true.

16 **Q.** Let's look at what you said about the causes of that
17 problem. You agree that prescription opioids don't just
18 show up on a pharmacy's doorstep, right?

19 **A.** Correct.

20 **Q.** You understand that distributors, wholesale
21 distributors, only ship opioid pain medications when
22 pharmacists order them, right?

23 **A.** Yes.

24 **Q.** So, you understand that the number of doses of opioid
25 pain medications that were shipped to Cabell County and

1 Huntington was simply the number of doses that were ordered
2 by pharmacists in Cabell County and Huntington, right?

3 **A.** Yes.

4 **Q.** You also understand that the pharmacist who ordered
5 those medications were licensed by the government, right?

6 **A.** Yes, sir.

7 **Q.** And the City hasn't sued any pharmacists in this case,
8 has it?

9 **A.** I haven't looked at the order of our original lawsuit.
10 I'm not sure. I think there -- you're asking pharmacists,
11 correct?

12 **Q.** Yes, Mayor.

13 **A.** No. I don't believe specific pharmacists.

14 **Q.** And you understand that when pharmacists in Huntington
15 and Cabell County dispensed prescription pain medication,
16 they were doing it because a patient brought them a
17 prescription from a doctor or some other kind of licensed
18 prescriber, right?

19 **A.** Yes, sir.

20 **Q.** And you agree that pharmacists in Cabell County and
21 Huntington were dispensing prescription opioids only to
22 people who had prescriptions, right?

23 **A.** That the pharmacists were -- yes, that the pharmacists,
24 is that your question again? I'm sorry.

25 **Q.** Yes, Mayor. You would agree that the pharmacists in

1 Cabell County and Huntington --

2 **A.** Yes.

3 **Q.** -- were dispensing prescription opioids only to
4 patients who had prescriptions from physicians?

5 **A.** Yes, sir.

6 **Q.** So, you understand then that the number of pills that
7 were shipped to Cabell County and Huntington was the number
8 that physicians there prescribed; is that right?

9 **A.** Yes, sir.

10 **Q.** And that's the way it should be, right? You agree that
11 it's up to a physician to decide who has a legitimate need
12 for prescription opioids, correct?

13 **A.** Yes, but if I could at least speak to this because I
14 understand the direction you are going. My -- my principal
15 concern is this, is that while prescriptions are being
16 written by physicians, filled by pharmacists, the pharmacy
17 is requesting the shipment of pills from the distributors.
18 Through this system causes me to have a concern. Now, this
19 is not my area of expertise, but it appears to me that if
20 there is a trend of extremely high levels of prescriptions
21 that are being ordered into the community, I would think
22 that red flags and bells would be going off everywhere and
23 that -- and excuse me for going on with this. Our concern
24 -- my concern has been how did we get here.

25 **MR. RUBY:** Your Honor, the question was whether

1 the mayor agrees that it's up to a physician to decide who
2 has a legitimate need for opioids, so I will move to strike
3 that answer as non-responsive.

4 MR. MAJESTRO: Your Honor, and at this time, I
5 want to object. He's well beyond what this witness's
6 personal knowledge is of these concepts.

7 MR. RUBY: Your Honor, the witness has just been
8 on the stand for two hours testifying about the depth of the
9 opioid crisis that exists in Huntington and Cabell County
10 and we're certainly entitled to cross examine about
11 statements he's made as to the cause of that problem.

12 THE COURT: Well, I'm going to overrule and deny
13 the motion. I think you made a motion to strike the
14 testimony, didn't you?

15 MR. RUBY: Yes, Your Honor.

16 THE COURT: I'm going to deny the motion to
17 strike. I think the mayor is just explaining his answers
18 and I'll let you go ahead, but you need to answer the
19 specific question, if you can.

20 THE WITNESS: Yes, sir. I understand. I
21 apologize.

22 BY MR. RUBY:

23 Q. And I do want to get, Mayor, an answer to that question
24 and make sure it's clear on the record.

25 You do agree that it is up to a physician to decide who

1 has a legitimate need for prescription opioids, right?

2 **A.** Yes, sir. I thought I said -- excuse me. I apologize,
3 but I thought I had said yes before I went into my
4 explanation.

5 **Q.** You understand that prescription opioids are approved
6 by the FDA?

7 **A.** Yes, sir.

8 **Q.** And you understand that they serve the legitimate
9 purpose of treating people who are in pain, correct?

10 **A.** Yes.

11 **Q.** And you believe that the vast majority of doctors in
12 Cabell County and Huntington thought they were prescribing
13 opioids appropriately, correct?

14 **A.** Yes, sir. Yes, sir.

15 **Q.** Let's talk about some other things, Mayor, that you've
16 said and that the City has said caused the problem that you
17 testified about earlier. You, of course, are familiar with
18 the complaint in this case, correct?

19 **A.** Yes, sir.

20 **Q.** I'm going to give it to you because it's lengthy and I
21 don't expect you to have it all in memory. This is going to
22 be DEF-WV-2631.

23 MR. RUBY: May I approach, Your Honor?

24 I noticed that the bench had been cleared, Your Honor.
25 I didn't think you'd want to keep it that way for long.

1 THE COURT: Well, I want to have plenty of room
2 for the next batch of documents.

3 (Laughter)

4 BY MR. RUBY:

5 Q. Mayor, this is the current version of the complaint in
6 this case, correct, the third amended complaint?

7 A. Yes, sir.

8 Q. And you, yourself, made the decision to file this
9 lawsuit, right?

10 A. Yes, sir.

11 Q. It wasn't City Council; it was you, correct?

12 A. Yes, sir.

13 Q. And the first defendant that's named on this complaint
14 is Purdue Pharma, LP, correct?

15 A. Yes, sir.

16 Q. And then the next two are other Purdue Pharma
17 companies; is that right?

18 A. And I think family members, yes, sir.

19 Q. And we'll get to that. There's Rhodes Pharmaceuticals,
20 which is a subsidiary of Purdue Pharma?

21 A. Yes. Excuse me. I'm not really sure, but I will take
22 your word for it.

23 Q. And then you mentioned family members. Here on the
24 complaint you have Richard Sackler, Kathe Sackler, Jonathan
25 Sackler, and a number of other people named Sackler,

1 correct?

2 **A.** Yes, sir.

3 **Q.** The Sackler family owns Purdue Pharma?

4 **A.** As I understand.

5 **Q.** And then there is, after that, a page and a half of
6 pharmaceutical manufacturers, correct, in the defendants'
7 section of this complaint?

8 **A.** Yes, sir.

9 **Q.** Now, there's some preliminaries here at the beginning
10 of the complaint, Mayor, but I'm going to ask you to turn
11 past those and go, if you would, to Page 75 and look at
12 Paragraph 313. And we should also be able to get that on
13 the screen there beside you so that it's a little bit more
14 convenient to see.

15 Do you see there, Mayor, at the bottom of Page 75,
16 Paragraph 313?

17 **A.** Yes.

18 **Q.** That paragraph says this drug crisis began with a
19 corporate business plan. It started with a decision by
20 Purdue and the Sackler defendants (collectively, Purdue
21 entities), to promote opioids deceptively and illegally in
22 order to significantly increase sales and generate billions
23 of dollars in revenue for Purdue's private owners, the
24 Sackler family.

25 Did I read that correctly?

1 **A.** Yes, sir.

2 **Q.** And you agree with that statement, correct?

3 **A.** Yes.

4 **Q.** There's nothing in there that you disagree with?

5 **A.** There's nothing I disagree with.

6 **Q.** And that statement on what started the opioid crisis,
7 that's about Purdue Pharma and the Sackler family, correct?

8 **A.** Yes.

9 **Q.** In fact, you believe that Purdue Pharma led to opioid
10 abuse across our entire country, don't you?

11 **A.** Yes.

12 **Q.** And Purdue led to opioid abuse specifically in
13 Huntington, West Virginia?

14 **A.** Yes.

15 **Q.** And in Cabell County, West Virginia?

16 **A.** Yes.

17 **Q.** The Sackler family contributed to opioid abuse in
18 Huntington, West Virginia, correct?

19 **A.** Yes.

20 **Q.** And in Cabell County, West Virginia?

21 **A.** Yes.

22 **Q.** Let's look at the next paragraph, Paragraph 314. This
23 says Purdue's strategies were quickly joined by other
24 manufacturers.

25 Do you see that? And I'm going to stop right there.

1 We'll finish it so you can have a chance to look at the
2 whole thing.

3 But the first part there, Purdue's strategies were
4 quickly joined by other manufacturers, do you agree with
5 that statement?

6 **A.** Yes.

7 **Q.** And then the paragraph goes on to name a long list of
8 other pharmaceutical manufacturers, correct?

9 **A.** Yes.

10 **Q.** Endo Pharmaceuticals on that list?

11 **A.** What was that again, sir?

12 **Q.** Endo Pharmaceuticals?

13 **A.** Oh, yes. Yes.

14 **Q.** And Par, P-a-r, Pharmaceutical is on that list?

15 **A.** Yes.

16 **Q.** Johnson & Johnson is on that list?

17 **A.** Yes.

18 **Q.** Noramco?

19 **A.** Yes.

20 **Q.** Teva Pharmaceuticals?

21 **A.** Yes.

22 **Q.** Mallinckrodt?

23 **A.** Yes.

24 **Q.** And there are a few others that I'll skip over for the
25 sake of time, but at the end of that list in parentheses it

1 says (collectively the), and then in quotes, "marketing
2 defendants". Do you see that?

3 **A.** Yes.

4 **Q.** And what that means is that where this complaint says
5 marketing defendants, it means the pharmaceutical
6 manufacturers that are in that list, right?

7 **A.** Yes.

8 **Q.** So, let's look at what the complaint says about the
9 marketing defendants. If you turn to the next page, Mayor,
10 Paragraph 319, and we'll take this a bite at a time. This
11 paragraph starts out the marketing defendants' scheme was
12 resoundingly successful. Do you see that?

13 **A.** Yes.

14 **Q.** You agree with that statement, right?

15 **A.** Yes.

16 **Q.** And then it goes on to say chronic opioid therapy --
17 the prescribing of opioids long-term to treat chronic pain
18 -- has become a commonplace, and often first-line,
19 treatment.

20 You agree with that statement, right?

21 **A.** Yes.

22 **Q.** And then it says marketing defendants', and that's the
23 list of manufacturers that we just looked at, right?

24 **A.** Yes.

25 **Q.** It says marketing defendants' deceptive marketing

1 caused prescribing not only of their opioids, but of opioids
2 as a class, to skyrocket.

3 Did I read that correctly?

4 **A.** Yes.

5 **Q.** And you agree with that statement, right?

6 **A.** Yes.

7 **Q.** Now, Mayor, we could spend a couple of hours going
8 through everything that your complaint says about the
9 manufacturers, but I'm not going to do that. I'm going to
10 ask you to look at just a few more statements in this
11 document.

12 If you would, turn to Page 94. And I'll direct you to
13 Paragraph 376. Are you there?

14 **A.** Yes. At the bottom of the page, correct?

15 **Q.** Yes, sir. This paragraph says marketing defendants' --
16 and, again, that's the list of manufacturers that we looked
17 at just a moment ago, right?

18 **A.** Yes.

19 **Q.** Marketing -- marketing defendants' deceptive marketing
20 created a cadre of doctors who looked for pain and treated
21 it with opioids, which created an even broader cohort of
22 patients who expected and received opioids.

23 Do you agree with that statement?

24 **A.** Yes.

25 **Q.** And it goes on to say this laid the groundwork for

1 today's epidemic of opioid addiction, injury and death.

2 You agree with that statement, correct?

3 **A.** Yes.

4 **Q.** If you turn to Page 98, Mayor, Paragraph 384, do you
5 see that?

6 **A.** Yes.

7 **Q.** This paragraph says the marketing defendants'
8 misrepresentations generally fall into the following nine
9 categories: The risk of addiction from chronic opioid
10 therapy is low. That's number one, correct?

11 **A.** Yes.

12 **Q.** And you agree with that statement?

13 **A.** Yes.

14 **Q.** And it goes on to say, number 2, signs of addictive
15 behavior are, quote, "pseudoaddiction," requiring more
16 opioids. You agree with that statement, correct?

17 **A.** Yes.

18 **Q.** Number 3, to the extent there is a risk of addiction,
19 it can be easily identified and managed. You agree with
20 that, correct?

21 **A.** I agree, once again, the misrepresentation on -- that
22 it was a misrepresentation.

23 **Q.** And I want to be clear on the record. You agree that
24 this was one of the misrepresentations --

25 **A.** Yes.

1 Q. Made by the marketing defendants, correct?

2 A. Yes, sir.

3 Q. And you also agree that another of the
4 misrepresentations that the marketing defendants made is
5 number 4 here, opioid withdrawal can be avoided by tapering,
6 correct?

7 A. Yes.

8 Q. And you agree that another one of those defendants --
9 by the misrepresentations, excuse me, by the marketing
10 defendants was number 5, long-term opioid use improves
11 functioning, correct?

12 A. Correct.

13 Q. And another misrepresentation by the marketing
14 defendants was number 6, that opioid doses can be increased
15 without limit or greater risks, correct?

16 A. Correct.

17 Q. And another misrepresentation by the marketing
18 defendants was here in number 7. Alternative forms of pain
19 relief pose greater risks than opioids. You agree with
20 that, correct?

21 A. Yes.

22 Q. And you agree that -- that -- and I'll do 8 and 9
23 together here, that the marketing defendants'
24 misrepresentations also included the misrepresentation that
25 Oxycontin provides 12 hours of pain relief and that new

1 formulations of certain opioids successfully deter abuse.

2 Do you agree with that?

3 **A.** Yes.

4 **Q.** All of those are misrepresentations that, according to
5 the City of Huntington and Cabell County, were made by the
6 marketing defendants, correct?

7 **A.** Yes.

8 **Q.** And then, Mayor, if you would turn to Paragraph 385,
9 it's the next one down, it says each of these propositions
10 was false. The marketing defendants knew this, but they
11 nonetheless set out to convince physicians, patients, and
12 the public at large of the truth of each of these
13 propositions in order to expand the market for their
14 opioids. You agree with that statement, correct, Mayor?

15 **A.** Yes.

16 **Q.** Now, let's talk about another organization that the
17 City of Huntington also says caused the opioid problem.
18 You're familiar with the Joint Commission, correct?

19 **A.** Yes.

20 **Q.** And that used to be called the Joint Commission on the
21 Accreditation of Healthcare Organizations?

22 **A.** Yes.

23 **Q.** We'll call it the Joint Commission today, or JCAHO,
24 which is the way that people pronounce the acronym for the
25 whole longer name; is that all right?

1 **A.** Yes, sir.

2 **Q.** The Joint Commission is the organization that accredits
3 virtually every hospital in America; is that right?

4 **A.** Yes.

5 **Q.** And it's an enormously influential organization in the
6 medical community, correct?

7 **A.** Yes.

8 **Q.** Huntington -- separate and apart from the case that
9 we're in here today, Huntington has also sued the Joint
10 Commission for causing the opioid problem, correct?

11 **A.** Yes.

12 **Q.** And you made the decision to file that lawsuit; is that
13 right?

14 **A.** Yes.

15 **Q.** I'm going to ask you to take a look, Mr. Mayor, at
16 what's been marked DEF-WV-1102.

17 MR. RUBY: May I approach, Your Honor?

18 THE COURT: Yes.

19 BY MR. RUBY:

20 **Q.** Mayor, the document that I've handed you, DEF-WV-1102,
21 this is a press release that your office issued in November
22 of 2017, correct?

23 **A.** Yes.

24 **Q.** It says at the top in the headline, Huntington, three
25 other West Virginia cities, file lawsuit against Joint

1 Commission, correct?

2 **A.** Yes.

3 **Q.** You personally approved the quotes from you that appear
4 in this press release; is that right?

5 **A.** Yes.

6 MR. RUBY: Your Honor, I would move to admit
7 DEF-WV-1102.

8 THE COURT: Any objection?

9 MS. KEARSE: I think it's -- well, it's hearsay on
10 -- it's a press release. Hearsay.

11 MR. RUBY: Your Honor --

12 THE COURT: If it's hearsay, how do you get it in?

13 MR. RUBY: Statement of party opponent offered
14 against the party, 801(d)(2).

15 THE COURT: Let me look at the rule just to be
16 sure.

17 (Pause)

18 THE COURT: It's admitted. 1102 is admitted.

19 BY MR. RUBY:

20 **Q.** Mayor, we will look at the complaint against the Joint
21 Commission that this press release refers to in just a
22 minute, but I want to first look at how you, yourself,
23 described the lawsuit in this press release.

24 If you would turn, Mayor, to Page 2, and you may have a
25 double-sided copy there, I'm not sure. Mine is. And if

1 yours is, then it would be on the back of Page 1. Page 2,
2 the third paragraph down, is a quote from you and it begins
3 this lawsuit is a critical move. Do you see that?

4 **A.** Yes.

5 **Q.** It says this lawsuit is a critical move toward
6 eliminating the source of opioid addiction and holding one
7 of the most culpable parties responsible. Did I read that
8 correctly?

9 **A.** Yes, sir.

10 **Q.** You agree with that statement, right?

11 **A.** I -- yes. I agree that it is one of the most culpable
12 parties. There was a qualifier in there and that was on
13 purpose.

14 **Q.** Well, let me ask, is there any part of this statement
15 that you disagree with?

16 **A.** No. It's -- but it's a qualification. It's not a --
17 an assertion that it's the most culpable. It's one of the
18 most culpable.

19 **Q.** And that refers to the Joint Commission, correct?

20 **A.** Yes, sir.

21 **Q.** Let's talk about why suing the Joint Commission in your
22 view was a critical move toward eliminating the source of
23 opioid addiction. The Joint Commission played a key role in
24 the concept of pain as the fifth vital sign; is that right?

25 **A.** Yes.

1 Q. And the concept of pain as the fifth vital sign that,
2 in turn, led to increasing prescribing of pain medications,
3 correct?

4 A. Yes.

5 Q. And that's why you said that the lawsuit against the
6 Joint Commission was a critical move toward eliminating the
7 source of opioid addiction, right?

8 A. Yes.

9 Q. Now, let's focus on the second part of the sentence,
10 which is the one that you commented on just a moment ago.
11 It says holding one of the most culpable parties
12 responsible, and you agree that the Joint Commission is one
13 of the most culpable parties responsible for the opioid
14 problem, correct?

15 A. Yes.

16 Q. And the reason that you believe that is because it's
17 the Joint Commission that sets the standards that
18 physicians, and hospitals, and clinics rely on, right?

19 A. Yes.

20 Q. And the Joint Commission helped encourage the
21 prescribing of opioids because it set standards that
22 required hospital patients' pain to be eliminated, right?

23 A. Eliminated, I think, is the keyword, yes.

24 Q. And, in your view, the only way to accomplish that, the
25 only way for hospitals, and physicians, and prescribers

1 working in hospitals to accomplish that, was by prescribing
2 opioids, correct?

3 **A.** Yes.

4 **Q.** Turn to the next sentence of what you said here in the
5 press release, Mayor. It goes on, for too long, JCAHO has
6 operated in concert with opioid producers to establish pain
7 management guidelines that feature the use of opioids
8 virtually without restriction. You agree with that
9 statement, right?

10 **A.** Yes.

11 **Q.** And by opioid producers in that statement, you meant
12 manufacturers, correct?

13 **A.** Yes.

14 **Q.** And when you said that JCAHO, an opioid manufacturer,
15 established pain management guidelines that feature the use
16 of opioids virtually without restriction, what you meant was
17 that the fifth vital sign which JCAHO promoted led to the
18 use of opioids virtually without restriction, right?

19 **A.** Yes, sir.

20 **Q.** You agree that JCAHO contributed to the opioid abuse
21 problem in Huntington and in every other city across the
22 country, don't you?

23 **A.** Yes.

24 **Q.** Now, we'll take a look at the complaint, the JCAHO
25 complaint itself, Mayor. I'm going to show you what's been

1 marked as DEF-WV-2124.

2 Mayor, is this the City's complaint against the Joint
3 Commission?

4 **A.** Yes.

5 **Q.** And you approved this complaint, right?

6 **A.** Yes, on behalf of the City of Huntington.

7 **Q.** And it was filed, in fact, by the City of Huntington
8 among some other plaintiffs who are listed there on the
9 front page, correct?

10 **A.** Yes.

11 **Q.** It was filed here in the Southern District of West
12 Virginia, correct?

13 **A.** Yes.

14 **Q.** And the City sued -- the City of Huntington sued here
15 the Joint Commission which, according to the caption, was
16 formerly known, as you've already discussed, is the Joint
17 Commission on the Accreditation -- I got that wrong. The
18 Joint Commission on Accreditation of Healthcare
19 Organizations and also sued Joint Commission Resources,
20 Inc., which is an affiliate of the Joint Commission,
21 correct?

22 **A.** Yes.

23 **Q.** And -- and -- well, I'll just -- I think we've already
24 established that.

25 MR. RUBY: Your Honor, I would move to admit this

1 document, also, as a statement of a party opponent.

2 THE COURT: Well, I can take judicial notice of it
3 anyway, can't I?

4 MR. RUBY: You can, Your Honor.

5 THE COURT: Any objection?

6 MS. KEARSE: No, Your Honor.

7 THE COURT: It's admitted.

8 BY MR. RUBY:

9 **Q.** Let's see, Mayor, what this complaint against the Joint
10 Commission says about the causes of the opioid problem in
11 Huntington. And we will start with the first numbered
12 paragraph, which is on Page 2. Do you see Paragraph number
13 1 there, Mayor?

14 **A.** Yes.

15 **Q.** That says, in 2001, Defendant JCAHO, as part of its
16 certification program for healthcare organizations, teamed
17 with Purdue Pharma LP and its affiliates, and in parentheses
18 there it says ("Purdue"), as well as other opioid
19 manufacturers, to issue pain management standards, ("or
20 Standards") and other related documents that grossly
21 misrepresented the addictive qualities of opioids and
22 fostered dangerous pain control practices, the result of
23 which was often the inappropriate provision of opioids with
24 disastrous adverse consequences for individuals, families,
25 and communities. Did I read that correctly?

1 **A.** Yes.

2 **Q.** And you agree with that statement, correct?

3 **A.** Yes.

4 **Q.** And there's not a part of that statement that you
5 disagree with, is there?

6 **A.** No.

7 **Q.** It continues, these dangerous standards, with minor
8 modifications, exist to this day. Did I read that
9 correctly?

10 **A.** Yes, sir.

11 **Q.** And you agree with that statement, as well, correct?

12 **A.** Yes.

13 **Q.** And I'll say the same thing as I said on the last
14 complaint. We could spend a long time on the City's
15 explanation of how it was the Joint Commission that caused
16 the opioid problem in Huntington, but in the interest of
17 time, we'll move quickly.

18 If you can turn to Paragraph 8 on Page 4, Mayor. It
19 begins there at the bottom of Page 4 and continues onto the
20 next page. Do you see that?

21 **A.** Yes.

22 **Q.** It says, JCAHO's enforcement of its pain management
23 standards and its and JCRs -- that's Joint Commission
24 Resources, correct?

25 **A.** Yes.

1 Q. JCR?

2 A. Yes.

3 Q. -- widespread misinformation campaign about the safety
4 of opioids has also led to an over-prescribing of opioids,
5 not only in terms of doses and necessity, but also in terms
6 of quantity. Did I read that correctly?

7 A. Yes.

8 Q. And you agree with that statement, correct?

9 A. Yes.

10 Q. Now, the Joint Commission accredits in Huntington,
11 Cabell Huntington Hospital, correct?

12 A. Yes.

13 Q. St. Mary's Hospital?

14 A. Yes.

15 Q. Mildred Mitchell Bateman Hospital?

16 A. Yes.

17 Q. And River Park Hospital; is that right?

18 A. Yes.

19 Q. And the complaint here goes on to explain why JCAHO was
20 able to explain the standard -- was able to change, excuse
21 me, the standard of care so drastically.

22 And I'm going to direct you, Mayor, to Page 7,
23 Paragraph 16. Do you see that, Mayor?

24 A. Yes.

25 Q. It says here in the City's complaint, because of its

1 certification program, JCAHO wields enormous power over
2 healthcare organizations. Do you agree with that statement?

3 **A.** Yes.

4 **Q.** Loss of certification is deemed by most healthcare
5 organizations as disastrous to their continued operation.
6 Do you agree with that?

7 **A.** Yes.

8 **Q.** And JCAHO certifies 99% of healthcare organizations in
9 the United States. Do you agree with that?

10 **A.** Yes.

11 **Q.** It goes on, Mayor, and we will, as I said, skip most of
12 the allegations that the City made here, but I want you to
13 look at Page 39, Paragraph 142. Let me know when you're
14 there.

15 **A.** 142?

16 **Q.** 142.

17 **A.** Yes, sir.

18 **Q.** It says, no alternative to this class action exists.
19 Do you see that?

20 **A.** Yes.

21 **Q.** That's a true statement, right?

22 **A.** Yes.

23 **Q.** And that refers to the class action that's presented
24 here in this complaint against the Joint Commission, right?

25 **A.** Yes.

1 Q. It goes on to say, if JCAHO's standards persist, the
2 municipalities and their residents will continue to suffer
3 unabated harm. True statement, correct?

4 A. Yes.

5 Q. Or at least in view of the City, right?

6 A. Yes.

7 Q. That is what the City of Huntington told the United
8 States District Court for the Southern District of West
9 Virginia, that the only thing that can abate the opioid
10 problem is for JCAHO to change its pain management
11 standards, correct?

12 A. Yes.

13 Q. Now, this case, the City's case against JCAHO, it's
14 still ongoing, correct?

15 A. Yes.

16 Q. Last August, the City, I think -- I looked at the
17 docket. Last August, the City moved for leave to amend its
18 complaint; is that right?

19 A. Yes.

20 Q. And that motion is still pending with Judge Copenhaver?

21 A. Yes.

22 Q. And in this complaint that the City of Huntington has
23 been pursuing for almost four years about the cause of the
24 opioid problem, there's not a single word about Cardinal
25 Health, is there?

1 **A.** No.

2 **Q.** There's not a single word about McKesson Corporation?

3 **A.** Correct.

4 **Q.** There's not a single word about AmerisourceBergen?

5 **A.** Right.

6 **Q.** Let's look at some more evidence, Mayor, of what caused
7 the problem. I'm going to ask you to look at what's been
8 marked DEF-WV-473.

9 MR. RUBY: And, Your Honor, as a housekeeping
10 matter, I will note that this document, DEF-WV-473, was
11 previously admitted during the testimony of Dr. Werthammer
12 for the purpose of notice to the City, not for the truth of
13 the matter asserted, and that's the only purpose that I
14 intend to use it for today.

15 THE COURT: All right.

16 BY MR. RUBY:

17 **Q.** Mayor, this is an e-mail chain in which you were a
18 participant, along with a number of other people in the
19 Huntington community, correct?

20 **A.** Yes.

21 **Q.** And at the top here, there's an e-mail from Kenny
22 Burner, correct?

23 **A.** Yes.

24 **Q.** Dated February the 5th, 2016?

25 **A.** Yes.

1 Q. And you were one of the recipients of that e-mail from
2 Mr. Burner?

3 A. Yes.

4 Q. Mr. Burner is the former Head of Appalachia HIDTA in
5 West Virginia, correct?

6 A. Yes.

7 Q. And the subject of this e-mail is How Big Pharma Got
8 People Hooked on Opioids, correct?

9 A. Correct.

10 Q. Now, let's go quickly through some of the other people
11 who are on this e-mail chain. Dr. Joe Shapiro is the Dean
12 of the Medical School at Marshall; is that right?

13 A. Yes.

14 Q. Dr. Joe Werthammer is a physician in Huntington and the
15 former Chief Medical Office at Marshall Health?

16 A. Yes.

17 Q. Jim Johnson, you talked about earlier in your earlier
18 testimony. He was the Head of the City's Office of Drug
19 Control Policy and later the State Office of Drug Control
20 Policy?

21 A. Yes.

22 Q. Kevin Yingling is the former Chair of the Board at
23 Cabell Huntington Hospital, correct?

24 A. Yes.

25 Q. And also the Cabell-Huntington Health Department?

1 **A.** Yes.

2 **Q.** Michael Kilkenney is the Director of the Health
3 Department?

4 **A.** Yes.

5 **Q.** And Tim Hazelett is his number two?

6 **A.** Yes.

7 **Q.** I'll direct you, Mayor, to the third e-mail down in the
8 chain, the one that starts on -- or the header for it
9 starts, on February 5th, 2016, at 10:48 a.m., Werthammer,
10 comma, Joseph W. Do you see that?

11 **A.** Yes.

12 **Q.** And that's an e-mail from Dr. Werthammer, correct?

13 **A.** Yes.

14 **Q.** And he says there, unfortunately, it was not big pharma
15 who wrote the prescriptions. It was me and my colleagues,
16 correct?

17 **A.** Correct.

18 **Q.** And you had no reason to disagree with that statement,
19 true?

20 **A.** I had no reason to agree with the statement.

21 **Q.** And, in fact, you didn't disagree with it on this
22 e-mail chain, did you?

23 **A.** I didn't even acknowledge it.

24 **Q.** Now, look at the message above that one, the one from
25 Dr. Shapiro.

1 **A.** Yes.

2 **Q.** He replies to Dr. Werthammer's e-mail and says, we had
3 some help. Pain as the fifth vital sign comes to mind. Do
4 you see that?

5 **A.** Yes.

6 **Q.** And you have no reason to disagree with that statement
7 either, do you?

8 **A.** No.

9 **Q.** And you didn't disagree with it in this e-mail chain,
10 did you?

11 **A.** I didn't agree with it either. I just received the
12 e-mail.

13 **Q.** And Mr. Burner then replies to that e-mail from Mr.
14 Shapiro, correct?

15 **A.** Correct.

16 **Q.** And, at that time, Mr. Burner was the Head of the High
17 Intensity Drug Trafficking Area Program for all of West
18 Virginia, right?

19 **A.** Yes.

20 **Q.** That program is the national coordinating arm of the
21 White House's Office of National Drug Control Policy, right?

22 **A.** Yes.

23 **Q.** And what Mr. Burner said was, Dr. Shapiro, I couldn't
24 agree with you more, correct?

25 **A.** Correct.

1 Q. And you didn't disagree with that statement in this
2 e-mail chain either, did you?

3 A. And I didn't agree with it either.

4 Q. Let's look at yet another document that talks about a
5 cause of the problem that you testified about earlier. I'm
6 going to show you what's been marked as DEF-WV-1134.

7 MR. RUBY: Approach, Your Honor?

8 BY MR. RUBY:

9 Q. Mayor, this is an e-mail from you to Bryan Chambers
10 dated January 17th, 2019; is that right?

11 A. Yes.

12 Q. Mr. Chambers is your Communications Director, correct?

13 A. Yes.

14 Q. And the subject here is Opioids Research - The
15 Guardian, correct?

16 A. Yes.

17 Q. I want to start at the bottom of the e-mail chain,
18 which is an e-mail from a Jessica Glenza to Mr. Chambers,
19 also dated January 17th, 2019. Do you see that?

20 A. Yes.

21 Q. And that says -- well, let's talk for a minute about
22 the subject of it and who Jessica Glenza is. She is a
23 reporter at The Guardian Newspaper, correct?

24 A. Yes.

25 Q. And she was writing to Mr. Chambers about a study that

1 was about to be released on opioid marketing payments made
2 directly to doctors, right?

3 **A.** Yes.

4 **Q.** And if you look at the second paragraph of her e-mail,
5 the one that begins as far as --

6 MR. MAJESTRO: Your Honor, this appears to be
7 hearsay. It's an e-mail from a reporter to another City
8 employee. It's not the statement of anybody from the City.

9 MR. RUBY: Two -- two points.

10 THE COURT: It's offered for the truth, isn't it?

11 MR. RUBY: It's going to be offered for the truth,
12 Your Honor. Two points. It will be offered for the truth.
13 What I think will be established on cross examination is
14 that the mayor and the City manifested their adoption of
15 this statement or at least their belief in its truth by
16 issuing a quote that was premised on the truth of the
17 statement and, therefore, it falls within Rule 801(d)(2)(B),
18 which says that a statement is not hearsay if it's offered
19 against an opposing party and is one that the party
20 manifested, that it adopted or believed to be true.

21 MR. MAJESTRO: He hasn't laid the foundation that
22 the City has adopted this statement. If the City makes
23 other statements somewhere else that might be similar,
24 that's not manifestation or the adoption of the statement.

25 MR. RUBY: I was on my way when Mr. Majestro

1 interposed an objection, Your Honor.

2 THE COURT: Yeah. I think we've got to see where
3 he goes with this, Mr. Majestro, before I rule on it.

4 BY MR. RUBY:

5 Q. Ms. Glenza, Mayor, was writing to Mr. Chambers
6 regarding a study that was about to be released on opioid
7 marketing payments directly to doctors; is that right?

8 A. Yes.

9 Q. And if you look at the second paragraph of her e-mail,
10 she says, as far as Cabell County specifically, the
11 researcher did some math at my request which was not
12 specifically included in the study. He found Cabell County
13 had the highest per capita rate of opioid marketing in the
14 29 months his study covered (2013-2015). Did I read that
15 correctly?

16 A. Yes.

17 Q. And it goes on to say, for every 1,000 people in the
18 county, drug companies spent \$49.95 in marketing payment
19 made directly to doctors annually. The U. S. -- sorry. The
20 annual U. S. average is \$1.57, so you can see the huge
21 difference.

22 Now, that is the information that your office received
23 from this reporter at The Guardian Newspaper, correct?

24 A. Yes.

25 Q. Now, if you look at the e-mail above that from Mr.

1 Chambers to you, do you see that?

2 **A.** Yes.

3 **Q.** And this says --

4 MR. MAJESTRO: Your Honor, I mean, I think he
5 needs to -- objection. I think he needs to lay the
6 foundation before he reads the statements into the record.
7 He's reading the statements into the record. He is not
8 laying a foundation for how these statements were adopted by
9 the City.

10 THE COURT: I think that's right, Mr. Ruby. You
11 need to do that.

12 MR. RUBY: And then, Your Honor, I will wait to go
13 through this statement in detail although, parenthetically,
14 I would submit that it's also a proper subject for cross
15 examination as to the mayor's understanding and his views.

16 THE COURT: And can provide a good faith basis for
17 your question -- for your questioning him about the subject
18 without admitting the document. So, go ahead.

19 MR. RUBY: But I would like to see if we can get
20 it admitted, Your Honor.

21 BY MR. RUBY:

22 **Q.** So, let me ask you, Mayor, and we'll skip the -- I'll
23 skip the statement --

24 MR. RUBY: Well, you know what, Your Honor? I
25 take it back. I -- with respect to the e-mail that I'm

1 about to read, this is a statement from Bryan Chambers, who
2 is the Communications Director from the City of Huntington.
3 That's simply a statement of a party offered against the
4 party. That's 801(d)(2) that the Court just looked at. And
5 so, the statement that is offered, the statement that's made
6 here by Bryan Chambers, is simply a non-hearsay statement.

7 THE COURT: Well, who is Bryan Chambers, Mayor?

8 THE WITNESS: He's our -- my -- he's the
9 Communications Director for the City of Huntington.

10 THE COURT: So, he was a representative of the
11 City of Huntington at the time this was --

12 THE WITNESS: Yes, sir.

13 THE COURT: I'm going to admit it. I will
14 overrule the objection and admit it under Rule 801(d)(2).

15 MR. RUBY: Thank you, Your Honor.

16 BY MR. RUBY:

17 Q. And this statement from Mr. Chambers, Mayor, says,
18 Mayor, Jessica Glenza with The Guardian contacted me awhile
19 ago regarding a new study that will be released tomorrow at
20 11 a.m. regarding marketing dollars spent by drug companies
21 directly on doctors. The study found that Cabell County had
22 the highest amount spent per capita during the period of the
23 study, and then it says in parentheses, (see below and
24 attached for more details).

25 It goes on to say, I contacted Katie and Erin, our

1 media consultants, because Jessica mentioned the lawsuits on
2 the phone. Katie sees no problem with you providing a
3 statement for this story. She proposes the following.

4 And then there's a quote there in bold at the bottom.
5 Do you see that, Mayor?

6 **A.** Yes.

7 **Q.** It says, here is more evidence of these companies
8 profiting off of our residents and misleading ours doctors.
9 We are starting to dig out, but this will be a decades-long
10 recovery process. And you read this e-mail that you
11 received from your Communications Director, Mr. Chambers,
12 correct?

13 **A.** Yes.

14 **Q.** And it included a proposed quote that would come from
15 you?

16 **A.** Yes.

17 **Q.** About the high level of physician payments in Cabell
18 County; is that right?

19 **A.** Yes.

20 **Q.** And that quote was prepared by media consultants who
21 were helping you with this litigation, correct?

22 **A.** Correct.

23 THE COURT: Let me interrupt you and make the
24 ruling clearer. I'm admitting it under Rule 801(d)(2)(B),
25 as one party manifested that it adopted or believed to be

1 true.

2 MR. RUBY: Thank you, Your Honor.

3 BY MR. RUBY:

4 Q. Now, you reviewed, Mayor, the statement that the media
5 consultants that the City works with were proposing,
6 correct?

7 A. Yes.

8 Q. And you agreed to make that statement about the
9 extremely high level of physician payments for marketing in
10 Cabell County, correct?

11 A. Yes.

12 Q. And you don't have any knowledge of any of the
13 defendants in this case making any payments to any
14 physicians, do you?

15 A. No.

16 Q. Let's turn to yet another piece of the City's
17 explanation about what caused the opioid problem. In 2018,
18 Mayor -- and I'm going to go ahead and show you a document
19 that has been marked DEF-WV-1287. Mayor, are you familiar
20 with this document?

21 A. Yes, sir.

22 Q. And this is a letter that you sent to Senator Manchin
23 on December 27th, 2018; is that correct?

24 A. Yes.

25 Q. This is signed by you here on the back on Page 2,

1 correct?

2 **A.** Yes, sir.

3 MR. RUBY: Your Honor, move to admit as statement
4 of a party opponent.

5 THE COURT: Any objection?

6 MS. KEARSE: No objection, Your Honor.

7 THE COURT: It's admitted.

8 BY MR. RUBY:

9 **Q.** And it says here -- we'll start at the very beginning,
10 Mayor. Dear Senator Manchin, as the mayor of Huntington,
11 West Virginia, I oversee a city that has been ravaged by the
12 opioid drug crisis. Do you see that?

13 **A.** Yes.

14 **Q.** And we won't read the whole thing, but if you go to the
15 bottom of the page there, the last paragraph before the page
16 turns, it says, Senator Manchin, you can help by sponsoring
17 legislation that gives patients and physicians access to
18 non-opioid options for relieving post-surgical pain. Do you
19 see that?

20 **A.** Yes.

21 **Q.** That was the statement that you made to Senator Manchin
22 in this letter, correct?

23 **A.** Yes.

24 **Q.** And it goes on to say, right now, Medicare discourages
25 the use of non-opioid treatments in outpatient units because

1 the hospitals would have to bear the costs of them, correct?

2 **A.** Correct.

3 **Q.** And then go on past by turning the page, by contrast,
4 the hospitals bear none of the costs when they send patients
5 home with prescriptions for opioids. Do you see that?

6 **A.** Yes.

7 **Q.** And if you look down to the -- there's a sentence a bit
8 later in the paragraph that starts, thus, Medicare provides.
9 Do you see that?

10 **A.** Where is this?

11 **Q.** Same paragraph.

12 **A.** Oh, okay.

13 **Q.** A couple lines down. It says, thus --

14 **A.** Yes, sir. Yes, sir.

15 **Q.** Thus, Medicare provides an incentive for hospital
16 outpatient units to prescribe opioids instead of the
17 healthier option of administering non-opioid treatments
18 while the patients are still at the hospitals -- and later
19 pays for the drugs that can cause so much harm. Do you see
20 that?

21 **A.** Yes.

22 **Q.** You agree with all of those statements; is that right?

23 **A.** Yes.

24 **Q.** And then you go on to ask for a change. I'll look at
25 the last or the next to the last paragraph in the -- in the

1 letter. It says, Senator, I know you care for our fellow
2 West Virginians as much as I do. I urge you to use your
3 power in Congress to introduce legislation that would
4 mandate CMS to make the above policy changes or to use your
5 influence to persuade CMS to make the changes in lieu of
6 legislation. We must do anything we can to curb the opioid
7 crisis. Do you see that?

8 **A.** Yes.

9 **Q.** And those were statements that you made to Senator
10 Manchin, correct?

11 **A.** Yes.

12 **Q.** Now, the policy changes that you're urging here would
13 have resulted in additional payments to hospitals; is that
14 right?

15 **A.** If they were going to be administering non-opioid
16 treatments.

17 **Q.** And that was the purpose of it, right?

18 **A.** Yes.

19 **Q.** Was so that hospitals could be paid by Medicare for
20 non-opioid treatment that, according to your letter, are
21 more expensive than the opioid treatments that the hospitals
22 were providing?

23 **A.** I think, also, the purpose of the letter was that the
24 hospitals only get paid if opioid treatments are being
25 utilized and encouraging to, at least within what is

1 reimbursable, non-opioid payments. And to that end, yes,
2 the hospitals would be paid, but it's not just to get the
3 hospitals paid, but to be able to encourage them to divert
4 away from opioid -- opioid treatments.

5 **Q.** And the policy that you just described that you were
6 advocating be changed, that's a policy of Medicaid, right,
7 or the federal government?

8 **A.** Yes.

9 **Q.** And what you said to Senator Manchin here in this
10 letter is that Medicaid needed to change that policy in
11 order to curb the opioid crisis, correct?

12 **A.** Yes.

13 **Q.** And you agree with that; is that right?

14 **A.** Yes.

15 **Q.** Now, I know you've seen this letter before. You didn't
16 write this letter, did you?

17 **A.** I wrote some of it, but it was originally crafted by --
18 by an old friend, but also someone -- a lobbyist and he
19 crafted it and we made adjustments, as we had discussed once
20 before in the deposition.

21 **Q.** And you would agree that the substance of this letter
22 was originally written by a lobbyist, correct?

23 **A.** Yes.

24 **Q.** And then the lobbyist sent the letter to you, correct?

25 **A.** Yes.

1 Q. And you made some adjustments to the form of the letter
2 and signed your name to it, correct?

3 A. Yes.

4 Q. And then sent it on to Senator Manchin with your name
5 on it, correct?

6 A. Yes.

7 Q. And were you aware at the time that you did that, that
8 the lobbyist who sent you the letter is a lobbyist for at
9 least five hospitals in West Virginia?

10 A. I wasn't aware of who he was a lobbyist for. I knew
11 that this was something that he was working on, but I didn't
12 know who he was -- I didn't know who he was -- who his
13 clients were.

14 Q. You're aware that the State of West Virginia, I think
15 the Ethics Commission, publishes a guide every year as to
16 registered lobbyists in West Virginia, correct?

17 A. Yes.

18 Q. And you're aware that in that guide is a list of the
19 clients that each registered lobbyist in the state lobbies
20 for?

21 A. Yes.

22 Q. But before you adopted this letter from the lobbyist
23 who sent it to you, you didn't check the list of registered
24 lobbyists to see if he, in fact, lobbied for hospitals,
25 correct? And you -- I'm sorry. Go ahead.

1 **A.** No, I didn't check.

2 **Q.** And you have no reason to disagree that he does, in
3 fact, represent at least five hospitals in the State of West
4 Virginia, correct?

5 **A.** I have no reason to disagree.

6 MR. RUBY: Your Honor, this might be a good time
7 to break for lunch.

8 THE COURT: Okay. I'm going to suggest we come
9 back at 1:30 instead of 2:00. Is there any objection to
10 that?

11 MR. RUBY: I think that's a good idea, Your Honor.

12 THE COURT: Okay. Mayor Williams, you're excused
13 until 1:30, sir.

14 THE WITNESS: Thank you.

15 THE COURT: And we'll see you then.

16 THE WITNESS: Yes, sir.

17 (Recess taken)

18 (Proceedings resumed at 1:29 p.m. as follows:)

19 THE COURT: You may resume the witness stand,
20 Mr. Williams.

21 THE WITNESS: Yes, sir.

22 THE COURT: All right, Mr. Ruby, you may proceed.

23 MR. RUBY: Thank you, Your Honor.

24 BY MR. RUBY:

25 **Q.** Mayor, I hope you had a good lunch.

1 **A.** Yes.

2 **Q.** When we left, we were talking about statements that,
3 that you and the city had made about the causes of the
4 opioid problem. I want to look at another one of those
5 statements.

6 In 2018 Huntington applied to participate in something
7 called the Mayors' Institute on Opioids; correct?

8 **A.** Yes, sir.

9 **Q.** And the Mayors' Institute was a program to provide
10 technical assistance and resources to cities that were
11 dealing with opioid problems?

12 **A.** Yes, through the National League of Cities.

13 **Q.** And the National League of Cities is in turn an
14 organization that provides policy-making assistance for
15 cities around the country; correct?

16 **A.** Yes.

17 **Q.** You're a member of the Board of Directors of that?

18 **A.** Yes.

19 **Q.** And for this Mayors' Institute on Opioids that the
20 National League of Cities was running there was a
21 competitive selection process; right?

22 **A.** Yes.

23 **Q.** Huntington applied to be a part of that institute?

24 **A.** Yes.

25 **Q.** And to receive the resources and technical support that

1 were involved there?

2 **A.** It's really technical support, but I guess you could
3 call those resources.

4 **Q.** And I don't mean funding.

5 **A.** Yeah.

6 **Q.** I mean resources in terms of the assistance from
7 the, --

8 **A.** Yes.

9 **Q.** -- from the NLC.

10 **A.** Yes.

11 **Q.** And ultimately Huntington was selected for that; right?

12 **A.** Yes.

13 **Q.** I'm going to ask you to take a look at what's been
14 marked Defendants' West Virginia 902.

15 MR. RUBY: Approach, Your Honor?

16 BY MR. RUBY:

17 **Q.** Mayor, the document that I've handed you,
18 Defendants' West Virginia 902, is the case statement
19 that the City of Huntington submitted for its
20 participation in the Mayors' Institute on Opioids;
21 correct?

22 **A.** Yes.

23 **Q.** And this is based on the city's application or its
24 response to the request or proposal that the National League
25 of Cities put out?

1 **A.** It's to describe the opportunities and challenges and,
2 in essence, laying -- the short answer is "yes." The longer
3 explanation is to indicate what we were dealing with in
4 relation to the five other cities who were participating.

5 **Q.** And this was prepared by you and others on the, the
6 team that are listed here at the top of the document; is
7 that right?

8 **A.** Yes.

9 MR. RUBY: Your Honor, move to admit Defendants'
10 902, statement of party opponent.

11 THE COURT: Any objection?

12 MS. KEARSE: No, Your Honor.

13 THE COURT: It's admitted.

14 BY MR. RUBY:

15 **Q.** Mayor, on the fifth page of the document do you see
16 the paragraph that begins at the bottom and carries over
17 to the next page? It begins, "Of the gaps and
18 priorities."

19 **A.** Yes, sir.

20 **Q.** That sentence says, "Of the gaps and priorities listed
21 in the RFP --" and the RFP was the Request for Proposals
22 from the National League of Cities; right?

23 **A.** Yes.

24 **Q.** "Of the gaps and priorities listed in the RFP, equity
25 has the biggest impact on health outcomes in Huntington."

1 That's a true statement; right?

2 **A.** Yes.

3 **Q.** And "equity" there essentially means economic
4 opportunity or lack of economic opportunity; correct?

5 **A.** Correct.

6 **Q.** And then it goes on to say, "Huntington thrived for
7 decades as a coal transport and manufacturing hub with
8 nearly 90,000 people living in the city in 1950. But as the
9 economy changed and the coal sector modernized, jobs left.
10 Blight, crime, and environmental challenges befell the
11 community."

12 You agree with that statement; right?

13 **A.** Yes.

14 **Q.** And it goes on to say, "City population dropped --"
15 turn the page there to Page 6. "City population dropped to
16 under 50,000 and over 30 percent of people in Huntington now
17 live in poverty."

18 That's a true statement; correct?

19 **A.** Yes.

20 **Q.** It goes on and it's a long paragraph and I won't ask
21 you about every bit of it. But if you read on, it describes
22 certain areas of the city. Well, actually, I'll just read
23 the next sentence.

24 "According to U.S. census data, certain neighborhoods
25 have poverty rates above 50 percent. Residents in these

1 areas struggle to meet daily needs and lack the resources to
2 improve their physical health and mental health outcomes
3 which can lead to depression and increase risk for drug use
4 and addiction."

5 Do you see that?

6 **A.** Yes.

7 **Q.** And you would agree with that statement; correct?

8 **A.** Yes.

9 **Q.** I want to move down, Mayor, there's another sentence
10 about halfway down the paragraph that begins, "In 2008 the
11 Center for Disease Control." Do you see that?

12 **A.** Yes.

13 **Q.** And this touches, I think, on something that you
14 mentioned earlier.

15 "In 2008 the Center for Disease Control gave Huntington
16 the poorest health rating of any metro area in the nation.
17 The Associated Press labeled Huntington as America's
18 fattest, most depressed, and most unhealthy city."

19 Do you see that?

20 **A.** Yes.

21 **Q.** And you agree with that statement?

22 **A.** Yes.

23 **Q.** And then the -- it goes on to say that nearly half of
24 the adults in the metropolitan area were obese and
25 Huntington led in a half dozen other illness measures

1 including heart disease and diabetes.

2 That's also true; correct?

3 **A.** Yes.

4 **Q.** And then the next sentence talks about steps that the
5 city has taken to combat obesity and improve health; right?

6 **A.** Yes.

7 **Q.** And then the final sentence of the paragraph says this:

8 "However, despite this progress, continuing economic
9 distress due to coal and manufacturing decline has
10 intensified the spread of opioid use in Huntington to
11 unthinkable proportions."

12 Do you agree with that statement?

13 **A.** Yes, if I could clarify one point. We didn't add this
14 to it, but at least this is in my mind right now, Your
15 Honor, is that the one thing that has become perfectly clear
16 is that the opioid epidemic is hitting communities that have
17 problems of poverty and unemployment, but it has -- it's
18 also hitting extremely wealthy communities as well.

19 And it has -- it does not discriminate on, on race, on
20 social stature, in, in life, or in income. I know we didn't
21 place this in here, sir, but it's on my mind and thank you
22 for giving me the chance to at least express it.

23 **Q.** But you do agree, Mayor, with the statement that you
24 made to the National League of Cities which is that
25 continuing economic distress due to coal and manufacturing

1 decline has intensified the spread of opioid use in
2 Huntington to unthinkable proportions; right?

3 **A.** Yes, sir.

4 **Q.** And the defendants in this case didn't cause the
5 decline of the coal industry, did they?

6 **A.** No.

7 **Q.** The defendants in this case didn't cause the decline of
8 the manufacturing industry?

9 **A.** No.

10 **Q.** The city wrote this document that was submitted to the
11 National League of Cities in 2018; correct?

12 **A.** Yes.

13 **Q.** And that was a year after you filed the lawsuit in this
14 case; correct?

15 **A.** Yes.

16 **Q.** This document talks about poor physical health as a
17 cause of the opioid problem; correct?

18 **A.** Yes.

19 **Q.** And poor mental health; correct?

20 **A.** Yes.

21 **Q.** And poverty; correct?

22 **A.** Yes, sir.

23 **Q.** And economic decline; correct?

24 **A.** Yes, sir.

25 **Q.** And it doesn't say a single word about pharmaceutical

1 distributors, does it?

2 **A.** No, it doesn't go into that entire area of, of the
3 industry. It's simply speaking to economic factors within,
4 within the community. We didn't bother to get into the
5 delivery of pharmaceuticals at all.

6 **Q.** Let's talk about another cause of the opioid problem in
7 Huntington. Huntington has a major problem with illegal
8 drug dealers; right?

9 **A.** Yes.

10 **Q.** And, specifically, Detroit drug dealers are a
11 significant cause of the opioid problem in Huntington;
12 correct?

13 **A.** Detroit and other cities, yes.

14 **Q.** Illegal drug dealers are the source of the heroin
15 that's sold in Huntington; correct?

16 **A.** Yes.

17 **Q.** And dealers from Detroit are a particularly serious
18 source of that heroin; right?

19 **A.** Yes. As I indicated, other cities have become very
20 pronounced, but Detroit gets most of the blame.

21 **Q.** And that circumstance, that, that drug dealers from
22 Detroit are, are a cause of the opioid problem, and in
23 particular the heroin problem in the City of Huntington,
24 that's existed for a long time, hasn't it?

25 **A.** Well, it's existed since I've been Mayor for the last

1 eight years.

2 **Q.** Mayor, I'm going to ask you to take a look at what's
3 been marked as Defendants' West Virginia 2148.

4 Mayor, this is an article from the Huntington
5 Herald-Dispatch dated May 21st, 2006; is that right?

6 **A.** Yes.

7 **Q.** And it actually was written by Bryan Chambers; correct?

8 **A.** That's what it says, yes.

9 **Q.** Mr. Chambers -- we talked about this a moment ago.
10 He's now your communications director?

11 **A.** Yes.

12 **Q.** But he used to be a recorder for the Herald-Dispatch
13 newspaper; right?

14 **A.** Yes.

15 **Q.** And the headline of the article here is "Heroin Making
16 Inroads in Huntington." Do you see that?

17 **A.** Yes.

18 **Q.** And this is, again, from May of 2006; correct?

19 **A.** Yes.

20 **Q.** And according to this article that he wrote, heroin, in
21 fact, was on the rise in Huntington as long ago as 2006;
22 right?

23 **A.** That's what this article is saying, but this is a
24 picture in time. My recollection is that there was a flare
25 of heroin in the 2006-2008 period -- I don't even think it

1 lasted that long -- where black tar heroin arrived in the
2 city and the police department effectively shut that down.
3 Then we started seeing heroin making a more aggressive move
4 in later years after I was Mayor.

5 **Q.** So the testimony that you just gave is about black tar
6 heroin; is that right?

7 **A.** Yes.

8 **Q.** Let's take a look at what the article is discussing
9 which I think it's a little different from your
10 recollection.

11 The article begins, "Detroit drug dealers who already
12 control most of the crack cocaine market in the Tri-State
13 are now shipping in a steady stream of heroin local
14 authorities say."

15 Do you see that?

16 **A.** Yes.

17 **Q.** I'm going to ask you to skip down with reference to the
18 point you made about black tar heroin to the fourth
19 paragraph that begins, "Detroiters are even adding." Do you
20 see that?

21 **A.** Yes.

22 **Q.** It says, "Detroiters are even adding a personal touch
23 with the packaging of heroin which is sold as a powder in
24 one-third to one-half gram hits for \$10 to \$20, Adams said.
25 It's wrapped in Michigan lottery tickets."

1 So that would indicate that the heroin that's being
2 discussed here is white powder heroin rather than black tar;
3 correct?

4 **A.** Yes.

5 **Q.** And this article was from 15 years ago; right?

6 **A.** Yes.

7 **Q.** I'm going to ask you to go down to the, the fifth
8 paragraph under the one we just read. It says, "Sergeant
9 Mike Clark of Cabell County's Drug Enforcement Unit said
10 he's baffled by the reappearance of heroin, especially with
11 most of the supply coming from Detroit crack dealers."

12 And he goes on to say, "Both drugs are extremely
13 dangerous and addictive, but that's where the similarities
14 end he said. Crack takes you way up but it's a short-lived
15 high. Heroin takes you way down but lasts longer. The
16 logical guess is crack dealers see that there's money to be
17 made and want to control both ends of the spectrum."

18 Did I read that correctly?

19 **A.** Yes.

20 **Q.** Do you have any reason to disagree with this report
21 that crack dealers as far back as 2006 in Huntington saw
22 there was money to be made in heroin and wanted to control
23 both ends of the spectrum?

24 **A.** No. My only observation here is that I believe this is
25 also around the time that the spike in opioid pills was

1 occurring. And it's an interesting parallel that as the
2 spike in opioid pills is spiking and there was a spike of
3 opioid pill distribution in Huntington and then heroin to be
4 coming on the back side of it. I don't know if there's
5 anything other than it's an interesting combination
6 occurring at the same time.

7 **Q.** And just to be clear, it's not your allegation that any
8 of the distributors in this case distributed heroin;
9 correct?

10 **A.** No. I'm simply saying the proliferation of opioid
11 pills coming in during that same time frame, it's an
12 interesting juxtaposition.

13 **Q.** Mayor, I want to change tracks just a bit and talk
14 about the city's budget which you testified about at some
15 length on the direct.

16 The city's budget for the fiscal year that ends today,
17 in fact, included a multi-million-dollar surplus, didn't it?

18 **A.** Yes.

19 **Q.** And we talked about that in your deposition last year.
20 In fact, it includes a surplus of about \$6 million; right?

21 **A.** Correct.

22 **Q.** Which is at \$6 million about 10 percent of your total
23 budget, give or take?

24 **A.** Yes, sir. It's close.

25 **Q.** And, in fact, when we talked about it last year, I

1 think you anticipated that the surplus was going to be
2 around \$6 million. In fact, it ended up being over
3 \$15 million; right?

4 **A.** Yes. In -- yes, in large measure because of COVID
5 where COVID was able to -- COVID or the CARES Act was able
6 to provide us assistance in covering some of the COVID
7 related expenses.

8 **Q.** And \$15 million is a little less than a quarter of your
9 total budget; right?

10 **A.** Correct.

11 **Q.** But in last year's budget, the city didn't budget any
12 of that surplus to address the opioid problem, did it?

13 **A.** We didn't budget -- correct. We didn't budget the
14 surplus, but our budget certainly is reflective of
15 everything that we're doing to fight the opioid epidemic.

16 **Q.** The city's budget for last year didn't include any
17 spending whatsoever on opioid treatment; correct?

18 **A.** We've never -- we've never funded opioid treatment.

19 **Q.** The only money that the city directs to opioid
20 treatment is grant money that originally comes from the
21 federal government --

22 **A.** Yes.

23 **Q.** -- and then passes through the state government and
24 then it's passed on through the city; correct?

25 **A.** Yes.

1 **Q.** That's the Federal Community Development Block Grant
2 Program?

3 **A.** Yes.

4 **Q.** Now, let's talk about some of the things that the city
5 did spend its money on last year.

6 Every city employee last year got a five percent raise;
7 right?

8 **A.** Yes.

9 **Q.** And you got a raise also; correct?

10 **A.** That was voted upon. It was not a selection by the
11 council of last year. That was a statutory provision that
12 was made by the previous council.

13 **Q.** And you were -- last year, just to explore that a
14 little bit more, you were up for re-election last year;
15 correct?

16 **A.** Yes.

17 **Q.** And you won; correct?

18 **A.** Yes.

19 **Q.** And when you won, because of the, the raise that had
20 been voted on by City Council, you got a raise from \$85,000
21 to almost \$115,000?

22 **A.** Yes.

23 **Q.** That's about a 35 percent increase?

24 **A.** I haven't calculated the increase.

25 **Q.** The city last year also increased the budget for the

1 animal shelter; correct?

2 **A.** Yes.

3 **Q.** But there was nothing in the budget for opioid
4 treatment?

5 **A.** Correct.

6 **Q.** And the reason that the city doesn't spend its own
7 money for opioid treatment you said is because it can find
8 grant funding for that; right?

9 **A.** Yes.

10 **Q.** Let's talk about the budget for the upcoming year.
11 Earlier this year, I think in February, you proposed the
12 city's budget for fiscal 2020; correct?

13 **A.** Yes.

14 **Q.** Fiscal 2020 -- no, strike that. Fiscal 2022.

15 **A.** '22, yes.

16 **Q.** Fiscal 2022 begins tomorrow; correct?

17 **A.** Yes.

18 **Q.** And that budget shows a 17-million-dollar surplus for
19 fiscal 2022; correct?

20 **A.** I would have to check that. My latest figures were
21 showing -- I'm not disputing it. I'm just -- I don't think
22 it's that much, but I'm not going to argue I guess.

23 **Q.** Would you agree it's in the neighborhood of
24 \$17 million?

25 **A.** I would agree that it's more than six million.

1 Q. Well, at one point did you, did you know what the, the
2 budget or the surplus was that was included in the fiscal
3 2022 budget?

4 A. We had a projected -- I think we were projecting a
5 10-million-dollar surplus. And, once again, I could be, I
6 could be corrected on it, but --

7 Q. At one point, you did have that number in mind;
8 correct?

9 A. Yes.

10 Q. And you don't, you don't have it in mind as you sit
11 here on the stand?

12 A. The most recent conversations that I've had with, with
13 my finance office trying to determine, we were sitting right
14 around the six-million-dollar range again, but it could be
15 now the calculations were set on the CARES money that has
16 come in that's used for COVID relief and such as that. But
17 I'm -- I'm not going to quibble with what.

18 Q. Let's, let's take a look at it. I'm going to show
19 you --

20 MR. RUBY: And this has not been marked, Your
21 Honor. But for purposes of impeachment, I am going to hand
22 the witness the City of Huntington, West Virginia, fiscal
23 year 2022 revenue budget. We'll mark it if we need to in a
24 minute.

25 MS. KEARSE: Your Honor, I'm not sure if this is

1 actually impeachment or just refreshing his recollection.

2 MR. RUBY: Well, I think we'll find that this is a
3 statement that -- or this is a document that the Mayor
4 provided to City Council. I'll lay that foundation. And if
5 it's a statement of his or a document that he provided to
6 City Council, then I think it's proper impeachment, Judge.

7 THE COURT: Well, are you offering it to refresh
8 his recollection? He said he couldn't remember
9 specifically.

10 MR. RUBY: I would be happy to go about it that
11 way, Your Honor. That's fine.

12 THE COURT: Yeah.

13 BY MR. RUBY:

14 Q. Mayor, let me ask, does the document that's in
15 front of you refresh your recollection as to what the
16 fiscal 2022 proposed budget included as its unassigned
17 fund balance as surplus?

18 A. I'm looking for it.

19 Q. First page.

20 A. Yes.

21 Q. Does that refresh your recollection?

22 A. Yes.

23 MR. RUBY: Your Honor, may I retrieve the
24 document?

25 THE COURT: Yes.

1 THE WITNESS: I understand.

2 BY MR. RUBY:

3 Q. Mayor, now that you've had a chance to look at the
4 fiscal 2022 proposed revenue budget for the City of
5 Huntington, does it project a surplus or an unassigned
6 fund balance of a little over \$17 million?

7 A. Yes.

8 Q. Now, in this budget you include a position to revive in
9 a form the Mayor's Office of Drug Control Policy that you
10 testified about earlier this morning; right?

11 A. There's been some discussion about that, but we haven't
12 come to a conclusion as to how. But at that point, we
13 created the position so that we wouldn't have to come back
14 and do it if we did decide to go into that direction.

15 MR. RUBY: Mr. Huynh, could we have Slide 5 from
16 the demonstrative deck that was used this morning, please?

17 BY MR. RUBY:

18 Q. The photo here that you see on the screen, Mayor,
19 that you testified about this morning, this is a
20 photograph of you with the members of the original
21 Mayor's Office of Drug Control Policy; correct?

22 A. Yes.

23 Q. There were three people assigned to that office;
24 correct?

25 A. Yes.

1 Q. One was Jim Johnson who's on the right there; correct?

2 A. Yes, sir.

3 Q. And then in the middle Scott Lemley; correct?

4 A. Yes.

5 Q. And then Jan Rader, now Chief Rader of the fire
6 department; correct?

7 A. That's correct.

8 Q. By -- and this, this office was established around
9 2014; correct?

10 A. Yes, in December -- November or December of 2014.

11 Q. And by 2017, each of these people, Mr. Johnson, Mr.
12 Lemley, and Chief Rader had moved on to different positions;
13 correct?

14 A. Yes.

15 Q. And they were replaced in their role at the Mayor's
16 Office of Drug Control Policy; correct?

17 A. Yes.

18 Q. But in next year's budget with, with the \$17 million
19 projected surplus, you have about 100,000 included for a
20 director of a new council on drug control policy and public
21 health; correct?

22 A. Yes. And that's also for office supplies and such as
23 that, not salary, but the \$100,000 generally.

24 Q. And you have about \$300,000 in the, the 2022 budget,
25 the fiscal 2022 budget for the COMPASS program; right?

1 **A.** Yes.

2 **Q.** The COMPASS program is the program for what's been
3 referred to as compassion fatigue by police officers and
4 fire fighters and EMTs and so forth?

5 **A.** Yes.

6 **Q.** And that involves a fitness facility and wellness
7 center for first responders?

8 THE COURT: Mr. Farrell.

9 MR. FARRELL: Judge, at this time I'd like to
10 place an objection, maybe just a preservation objection. I
11 believe we filed a motion before trial started on some of
12 this. I'm not quite sure that it has been ruled upon.

13 But I would like to just for the record proffer that
14 the City of Huntington along with the County Commission
15 waived all of their own claims for economic losses and are
16 bringing this case on behalf of the public as public
17 representatives.

18 So we don't know why the budget of the city or the
19 county has any bearing because what we're attempting to do
20 is not have the city or county pay for it. We're trying to
21 get the defendants to pay for it.

22 So I just would like to have a continuing objection on
23 the relevance to extra budget discussions of the two, the
24 city and the county in the third amended complaint.

25 THE COURT: Okay. You can have a continuing

1 objection. I'm going to overrule it and let you proceed.

2 MR. ACKERMAN: Can we just get a copy of the
3 budget that was used to refresh the witness's recollection?
4 I don't think we were provided with a copy.

5 Thank you.

6 BY MR. RUBY:

7 Q. I think the question, Mayor, was the COMPASS
8 program that's, that is budgeted at \$300,000 in the
9 upcoming year's budget, that includes a fitness facility
10 and a wellness center for first responders; correct?

11 A. Yes, sir. It's wellness and -- for physical fitness as
12 well as mental fitness.

13 Q. And in the fiscal 2022 budget with the
14 17-million-dollar projected surplus, there's still nothing,
15 not a penny for opioid treatment; correct?

16 A. Actually, nothing specifically. There's a line item
17 for opioid treatment. But there are several grants that we
18 have that I believe I had referenced earlier where there are
19 matches that occur. And those are coming directly out of
20 our, our budget as well.

21 There's some that are specifically for opioids, some in
22 our efforts within the police department. I think those
23 come to a couple million dollars. I'm not here to represent
24 that as fact.

25 But in answer to your question, there are

1 appropriations that we have in our day-to-day operations,
2 and particularly in servicing the grants that we have are
3 appropriations of the city so that we can be eligible for
4 those grants.

5 **Q.** Are those new since your deposition, Mayor?

6 **A.** In my deposition I had not even considered that we
7 might have -- what we might have in terms of grant --
8 matching money for grants. So it was not an intentional
9 omission. It's something that I thought of later.

10 I've contemplated -- we're being told we're not
11 spending any money. And then I'm looking at the number of
12 grants that we have. And we have to be able, not on all but
13 on some have salary matches. There are some that are
14 non-salary matches.

15 And the best I recall, we were talking for non-opioid
16 and police department, it came to about \$4 million of
17 matching money that we were having to use already reflected
18 within the individual budgets.

19 **Q.** I will -- Mayor, the, the match that you're talking
20 about, the city match that you're talking about, does that
21 come in the form of providing space, physical space?

22 **A.** No. What I'm talking about is -- some of it is a flat
23 dollar amount. If you get, let's just say, \$100,000,
24 \$20,000, we have to be able to, to cover.

25 Some of it is non-salary. Some of it is where we're

1 having to match the salary. It depends upon, depends upon
2 the grant. And, once again, there's some for opioids and
3 some were within, within the police department.

4 I think, if I'm not mistaken, and I'm just rolling off
5 of memory, the Byrne Justice, JAG grants, Justice, Justice
6 Assistance Grants, as I recall, we had some -- and I'm
7 bringing things up that we have not provided here. It's
8 just recent research that I've done.

9 **Q.** So I want to be clear before we turn to the deposition.
10 It's your testimony as you sit here today that the city does
11 spend part of its general fund budget on opioid
12 rehabilitation?

13 **A.** No, I didn't say rehabilitation. Our response to the
14 opioid, to the opioid epidemic.

15 **Q.** Okay. So let me make sure we've got the record clear.
16 It is the case, is it not, that the city, the city doesn't
17 spend any of its general fund budget on opioid treatment?

18 **A.** I stated that earlier. I thought I was hearing you say
19 we had not, we had not spent or budgeted any money for -- to
20 address the opioid addiction. And my assertion was that not
21 only throughout the general fund budget that we are
22 constantly addressing that.

23 But that aside, we have grants related to addressing
24 the opioid epidemic specifically. And we also have grants
25 that come to the police department to enable us to be able

1 to respond that -- and those -- I would, I would submit
2 that, yes, indeed, we do appropriate money in the general
3 fund in this endeavor to fight the opioid epidemic.

4 **Q.** And my question was specific to treatment. So --

5 **A.** Okay. Then, then I have taken us down a rabbit hole we
6 didn't need to go. I apologize.

7 **Q.** I want to make sure, just for the benefit of all of us
8 when we go back to look at this later, that we have a clear
9 record.

10 In last year's city budget, there, there was no
11 spending for opioid treatment; correct?

12 **A.** Correct.

13 **Q.** And in the fiscal 2022 projected city budget with a
14 17-million-dollar surplus, there's still no spending for
15 opioid treatment; correct?

16 **A.** Correct. And, once again, if I could, Judge, the
17 reason that we don't is that --

18 MR. RUBY: Your Honor --

19 THE COURT: Let him explain his answer.

20 THE WITNESS: That's not -- that is not what we
21 do. We don't have the expertise in that. We assist
22 entities to get grants, not necessarily anything that we're
23 going to be matching. But I will not ever expect the city
24 government -- I won't speak for the county, but I never
25 would expect the city government to actually start running

1 treatment programs or funding treatment programs.

2 THE COURT: Okay.

3 BY MR. RUBY:

4 Q. Mayor, I don't know if you heard Dr. Alexander's
5 testimony yesterday about how the city's facing an
6 existential problem. But the fact is that the city is
7 in the strongest financial position it's been in in 50
8 years; right?

9 A. Yes.

10 Q. Earlier this year you gave your annual budget message
11 to the City Council; correct?

12 A. Yes.

13 Q. And in that message you said that this is the first
14 City Council in more than 50 years that is not operating
15 from a perspective of scarcity; correct?

16 A. Correct.

17 Q. You said roads are being paved, delapidated buildings
18 are being removed, police and fire pensions are being funded
19 properly, employees are receiving regularly scheduled
20 raises; correct?

21 A. Yes, I said that. And if I can expand upon that, Your
22 Honor, I clearly will acknowledge -- and I think I've very
23 passionately acknowledged that the greatest existential
24 threat that we're facing in our city is our challenges of
25 the opioid epidemic.

1 However, we have other challenges as well. And to that
2 end, what I was trying to stress and get people, as I
3 mentioned, to be able to identify that small ray of, ray of
4 hope, the challenge that we have had in addressing the
5 opioid epidemic is not just addressing that, but also trying
6 to lift our economy and getting the city moving in that
7 direction.

8 And that's where I was focusing on, not on a position
9 of scarcity, but we're able to do things that were never
10 able to be done in our public infrastructure. And that's,
11 that's the very reason why I was making those comments in
12 that framework in the State of the City message.

13 **Q.** And on top of the 17-million-dollar budget surplus
14 that's projected for fiscal 2022, the city is also going to
15 get about \$44 million from the federal COVID Relief Act;
16 correct?

17 **A.** Actually, it's forty million six hundred eighty-four
18 million dollars (verbatim).

19 **Q.** And the \$40 million, let's just say, that the city is
20 getting in federal relief money, that can be spent on
21 substance misuse treatment; correct?

22 **A.** Actually, that is the first time I've ever heard of
23 that. I'm not disputing -- the rules and regulations on the
24 rescue plan seem to be changing on a weekly basis. What
25 we're focusing on are infrastructure projects, water, and

1 sewer and, and such as that.

2 Q. So you weren't aware -- and I'll cite this for the
3 benefit of the Court -- that 31, Code of Federal
4 Regulations, Section 35.6(b)(1)(xviii) lets you use that
5 \$40 million for substance misuse treatment?

6 THE COURT: Mr. Farrell.

7 MR. FARRELL: Judge, we would also like to renew
8 or preserve our motion that we filed on the collateral
9 source doctrine.

10 Again, the point is that we don't want the federal
11 government to have to pay for the opioid clean-up. We want
12 the defendants to pay for the opioid clean-up. I believe
13 that motion is still pending.

14 THE COURT: All right. You've got a pending
15 motion?

16 MR. FARRELL: I believe we argued under the
17 collateral source rule.

18 MR. RUBY: Judge, I think that's been denied.

19 MR. HESTER: The Court denied that motion.

20 THE COURT: I'm reminded that I denied that
21 motion.

22 MR. FARRELL: Well then -- so, Judge, what we
23 would like to do is preserve -- we'd like to preserve --
24 renew and preserve that motion.

25 THE COURT: All right. The record will so show.

1 BY MR. RUBY:

2 Q. And I'll ask the question again, Mayor. You
3 weren't aware that 31, Code of Federal Regulations,
4 Section 35.6(b)(1)(xviii) does let the city use that
5 \$40 million for substance misuse treatment?

6 A. Yeah. We weren't, we weren't aware of that. I was not
7 aware of that.

8 Q. And the county is going to get \$17 million in federal
9 COVID relief money on top of the 40 million that the city is
10 going to get; correct?

11 A. I know the county is getting some money. I really
12 haven't taken the time to familiarize myself with what my
13 brethren on the other side of the street are getting.

14 Q. But you know that it's millions of dollars; correct?

15 A. I know they're receiving some money, but I don't know
16 how much.

17 Q. The city has never taken any action to limit the
18 prescribing of opioids, has it?

19 A. No, because we never thought that it was something that
20 was within our legal authority to do that.

21 Q. In fact, you said you would be against that kind of
22 interference with the business practices; right?

23 A. I don't believe that that's the role that a city should
24 play.

25 Q. You think that if limits are going to be placed on the,

1 the prescribing of opioids by physicians, that ought to be
2 done by medical licensing bodies; right?

3 **A.** Yes.

4 **Q.** The city has never required doctors to report
5 information about opioid prescriptions that they write?

6 **A.** That's correct. And I think that is beyond the bounds
7 of our authority or responsibility.

8 **Q.** It's never limited -- the city has never limited the
9 number of opioids that pharmacies in Huntington could
10 dispense?

11 **A.** Correct.

12 **Q.** The city has never required pharmacies to report
13 information about opioids that they dispense?

14 **A.** I agree, yes. And, once again, that is not what cities
15 in my -- in my experience, that's not what cities are
16 allowed to do by the state legislature.

17 **Q.** Now, the city -- I want to focus on the statement that
18 you just made about the limits of the city's authority. The
19 city does have a Code of Ordinances; correct?

20 **A.** Yes.

21 **Q.** And the Code of Ordinances does define city offenses;
22 right?

23 **A.** Yes.

24 **Q.** And, in particular, the city Code of Ordinances has a
25 section defining nuisances; right?

1 **A.** Yes.

2 **Q.** And, and the nuisances that are defined in the city
3 Code of Ordinances, those define things that the city says
4 people can and can't do; correct?

5 **A.** Yes.

6 **Q.** I'm going to ask you to take a look at what's been
7 marked Defendants' West Virginia 2810.

8 MR. RUBY: Approach, Your Honor?

9 THE COURT: Yes.

10 MR. FARRELL: Judge, I think I'm on better ground
11 with this objection. I believe we've had motions that were
12 filed and you entered an order distinguishing between
13 nuisance by ordinance and nuisance per se.

14 And, so, this line of questioning is trying to
15 establish whether or not the city can adopt an ordinance
16 that makes X or Y a public nuisance. And as you'll recall
17 from the order, we have West Virginia precedent that says
18 just because the city says it's a public nuisance doesn't
19 make it adjudicated fact. That's why we have these
20 proceedings here.

21 So this line of questioning is taking the Mayor of the
22 City of Huntington down a legal analysis that would be the
23 subject of a Law Review article.

24 MR. RUBY: Judge, the question --

25 THE COURT: This is cross-examination and if I

1 understand where Mr. Ruby is going, he's pointing out that
2 the city code identifies a list of nuisances and he's asking
3 why can't you add another one that covers the opioids.

4 Isn't that where you're going?

5 MR. RUBY: You have, you have anticipated me, Your
6 Honor.

7 THE COURT: Go ahead.

8 BY MR. RUBY:

9 **Q.** Mayor, do you recognize this as Section 1109.01 of
10 the Huntington Code of City Ordinances?

11 **A.** Honestly, I can't say that I recognize it because I
12 don't spend much time going through our city ordinances, but
13 I will in a gentlemanly way take your word for it.

14 **Q.** Are you aware that the City of Huntington does prohibit
15 a number of nuisances that is defined?

16 **A.** Yes, as it's defined here I presume.

17 **Q.** And what this code section says is -- it starts out
18 with the title "What Constitutes Nuisances." And then it
19 says, "In addition to those declared by statute to be such,
20 each of the following specific conditions and things are
21 hereby prohibited and declared nuisances."

22 Do you see that?

23 **A.** Yes.

24 **Q.** And you agree that the City of Huntington has the
25 authority to define something as a nuisance and to prohibit

1 it; right?

2 **A.** Yes, within the bounds that are set forth by state law.

3 **Q.** And we'll turn to that in a minute. But I want to look
4 at a few of the things that the City of Huntington has
5 defined as nuisances.

6 Do you see there in Subsection (a) that the city has
7 defined as a nuisance and has prohibited the deposit or
8 accumulation of foul, decaying or putrescent substances?

9 **A.** Yes, I see that. And if you go down through here,
10 these -- honestly, I have no idea when these were put in
11 place. Some of them appear to be extremely dated and have
12 not been -- might have been an issue in some passing
13 decades, but nonetheless --

14 **Q.** The city's never passed an ordinance declaring anything
15 about prescription opioids to be a public nuisance; correct?

16 **A.** Correct. And given the fact that we have been dealing
17 with this nearly every day certainly in the last seven plus
18 years, if not all eight and a half years that I've been in
19 office, particularly with, with my leadership team and my
20 legal counsel, I would believe that if, if we were given
21 authority to be able to go down that path by the state
22 legislature that we would not have left that stone unturned.

23 **Q.** Let's talk about that. The city has, has ordinances on
24 all kinds of things that are also regulated by the state
25 government and federal government; right?

1 **A.** Yes. But, once again, the State of West Virginia is
2 extremely tight in what they say cities can and cannot do.
3 We are a creation of the state and they take that very
4 seriously, even to the point that even when we do some
5 things, they'll come back and say -- that are permitted,
6 they'll come back and say you can't do that anymore.

7 **Q.** The city has an ordinance on gambling; right?

8 **A.** Yes.

9 **Q.** And that's Article 513 of the Code of Ordinances.
10 Gambling is also regulated by the state and by the federal
11 government; correct?

12 **A.** I'm not arguing who is, who is regulating and at what
13 level. I'm simply saying that the state legislature sets
14 out cities can do these things. We might be able to do a
15 lot of things that state -- we are able to do several
16 things -- nothing comes to mind -- that, that the states and
17 federal government can do. But one thing is quite clear.
18 They tell us what we cannot do. And what I have been led to
19 believe, if something is not explicitly stated, better stay
20 away from it.

21 **Q.** And the city even has ordinances on drugs; right?

22 **A.** Not being an attorney and, as I indicated earlier, I
23 presume that we do, but I don't have the familiarity of our
24 code. That's why I have a legal staff.

25 **Q.** Well, and I'm not asking for any sort of legal opinion.

1 I'm just asking as the Mayor of City of Huntington and a
2 former city council member, you are aware, aren't you, that
3 the City of Huntington has an ordinance that prohibits
4 synthetic cannabinoids?

5 **A.** Matter of fact, what happened while I was on City
6 Council, yes.

7 **Q.** And the City of Huntington has another ordinance that
8 prohibits synthetic cocaine; correct?

9 **A.** I think that was all in the same ordinance, but it was
10 also accompanied by a state statute, if my recollection is
11 correct. There was a big debate that was occurring up at
12 the state legislature. And in my opinion -- my
13 recollection, what the state was doing was then allowing
14 localities to take action as well.

15 **Q.** And the city -- notwithstanding those ordinances on
16 other kinds of drugs, the city has never enacted an
17 ordinance that says anything about prescription opioids;
18 right?

19 **A.** Not that I'm aware of. Again, I have to say that I
20 depend upon my legal staff, legal department to advise us
21 accordingly.

22 **Q.** The, the first official action, as a matter of fact,
23 that the City Council ever took that was specific to the
24 issue of opioids was a resolution that it passed in April of
25 2020; right?

1 **A.** I would have to know what the resolution was.

2 **Q.** I'm going to show you what we've marked --

3 **A.** Was this, was this the one authorizing the lawsuit?

4 **Q.** It is.

5 **A.** Okay.

6 **Q.** At least in a manner of speaking, although it came
7 three years after the lawsuit.

8 I'm going to show you what's been marked as Defendants'
9 West Virginia 3148.

10 Mayor, this is the resolution that you were just
11 referring to; is that right?

12 **A.** Yes.

13 **Q.** And this is a, a resolution, not an ordinance; correct?

14 **A.** Yes.

15 **Q.** Meaning that it doesn't have the effect of allowing or
16 prohibiting anything; right?

17 **A.** Correct.

18 **Q.** And what this says is that this is a declaration of
19 public nuisance related to the wrongful manufacturing,
20 distribution, and dispensing of prescription pain pills to
21 Huntington residents; is that right?

22 **A.** That's the title.

23 **Q.** And if you look at the second page of the document,
24 you'll see that this was approved by the City Council on
25 April the 13th, 2020; is that correct?

1 **A.** Yes.

2 **Q.** And the reason that this was put before City Council in
3 April of 2020 was because your lawyers told you to; correct?

4 MS. KEARSE: Objection, Your Honor.

5 THE COURT: What's the basis of the objection?

6 MS. KEARSE: I, I think there's a discussion about
7 privilege there. But I think it was insinuated that he was
8 told something by the lawyers and I'm not sure where he's
9 going with it. But anything we've discussed, obviously, is
10 privileged, but it's outside the scope --

11 THE COURT: I'll sustain the objection to the
12 question the way you asked it, Mr. Ruby.

13 MR. RUBY: Judge, I'll just note that this was
14 testified to without objection in the witness's deposition.

15 THE COURT: Well, it's objected to now, so I'll
16 sustain it now.

17 BY MR. RUBY:

18 **Q.** This resolution was adopted, Mayor, three weeks
19 after the defendants in this case moved to dismiss in
20 part because the city had no ordinance of general
21 applicability that deemed the opioid problem a public
22 nuisance; correct?

23 **A.** I presume so, but I would have to rely upon my legal
24 counsel to tell me why and such on that. That's where I
25 depend upon my legal counsel.

1 **Q.** And this, this resolution was adopted in April of 2020
2 in response to that motion to dismiss that was filed in this
3 case; correct?

4 **A.** I wouldn't know. I had met with counsel and was
5 advised that --

6 MS. KEARSE: Objection.

7 THE WITNESS: Oh, I can't say that.

8 THE COURT: Sustained.

9 BY MR. RUBY:

10 **Q.** Now, the resolution from last year wasn't an
11 ordinance, but the city could have adopted an ordinance
12 in place of this resolution that added prescription
13 opioids to the city's public nuisance code; right?

14 **A.** I don't know if that's the case. That's something that
15 I just haven't agreed to because I'm not, I'm not certain
16 that we have that authority by state law.

17 **Q.** This resolution came more than three years after the
18 case was filed; correct?

19 **A.** Yes.

20 **Q.** And this case, in turn, was filed five years after the
21 state Attorney General sued Cardinal Health and
22 AmerisourceBergen; right?

23 **A.** Yes. Frankly, what the Attorney General did really did
24 not matter to me. I've got a problem in my city and the
25 Attorney General can do whatever he wants. We're going to

1 address the issues in our city and that's why I got elected
2 Mayor.

3 **Q.** But you must have known about the case that the
4 Attorney General filed in 2012; right?

5 **A.** I didn't know the details. I was aware that something
6 had been -- that there had been a case.

7 **Q.** And the city didn't file its own version of that case
8 until after the state got a settlement; correct?

9 **A.** That I don't know for sure. I presume, but I'm not
10 familiar with when the state case was settled or when -- if
11 it settled prior to 2017, then I'll agree. But if it's --
12 if it settled after that, then I'll have to say I'm not
13 sure.

14 **Q.** And the city didn't file this case until 2017 even
15 though the volume of opioid pain medications that was
16 distributed in Cabell County and Huntington was public
17 information down to the three-digit zip code level as far
18 back as 2003; correct?

19 **A.** I'll take your word for it that that was the -- that
20 was information that was available to the public.

21 MS. KEARSE: Your Honor, he doesn't have knowledge
22 of that.

23 THE COURT: Sustained.

24 MR. RUBY: Well, Judge, I'd like to ask the
25 question as to whether he did anything to determine that.

1 THE COURT: He said he didn't remember, and that's
2 the end of that question. So ask your next one and we'll
3 see where it goes.

4 BY MR. RUBY:

5 Q. And in your work on the opioid problem, Mayor, did
6 you do -- have you done anything to determine whether
7 the, the volume of opioid medications that were shipped
8 to Huntington/Cabell County was publicly available on
9 the DEA's website?

10 A. I became aware through the press that there was some
11 information that was available. But I haven't -- was not
12 aware that it's anything that I could obtain or was readily
13 made available to -- readily made available to the public.

14 Q. In the City of Huntington, Mayor, there's already a set
15 of programs in place that comprehensively address the opioid
16 crisis; correct?

17 A. We're constantly building upon -- on those programs.
18 We've laid a foundation on them since 2014. And as I
19 indicated I think earlier in my testimony, we knew there
20 were several programs that were in place. The left hand
21 didn't know what the right hand was doing. And what we've
22 been seeking to do is make sure that the community is
23 equipped to be able to step forward in a collaborative
24 fashion.

25 Q. And I'll make my question very specific. You agree

1 that the set of programs that are in place in Huntington
2 right now comprehensively, and I'll emphasize that word
3 comprehensively, address the opioid problem; correct?

4 **A.** We, we address -- we are attempting to address the
5 opioid epidemic in every way possible, but I don't think
6 it's comprehensive -- as comprehensive as it needs to be.

7 **Q.** Do you agree that it's comprehensive?

8 **A.** Counsel, the reason I'm hesitating on saying, saying
9 "yes" is that does saying comprehensive means that it covers
10 everything? I don't believe -- I don't want to represent
11 that I think it covers everything and I wouldn't want that
12 to be my testimony today.

13 I'm willing to make my testimony that it is far
14 reaching, but it is certainly not in a, in a comprehensive
15 manner that we can rest assured that we have everything that
16 we need to move forward to address this, this epidemic.

17 **Q.** All right. We've talked earlier about the deposition
18 that you gave last year. You were deposed in this case on
19 June 30th, 202; correct?

20 **A.** Sure. Well, then, read what I said and then we'll see
21 if I'm -- I'm not trying to be glib, but read what I said
22 and then we'll see if what I'm saying is diametrically
23 opposed. I think -- I can't imagine that they're too far
24 apart from one another. I may have just said "yes" and then
25 didn't continue to qualify my response.

1 MR. RUBY: Mr. Huynh, could we have Page 293 of
2 the transcript?

3 BY MR. RUBY:

4 Q. I'll direct you to lines 14 through 21, Mayor.

5 It says -- we were talking about a statement that the
6 city had made to the Mayors' Institute which we talked about
7 earlier.

8 And the question was: "And that says considered to be
9 at the front lines of the epidemic prior to engagement of
10 the Mayors' Institute the City of Huntington already had
11 numerous programs and practices in place to comprehensively
12 address the opioid epidemic. Do you agree with that
13 statement?" And you see that your answer was, "Yes."

14 Correct?

15 A. Yes.

16 Q. And you were telling the truth when you made that
17 statement; correct?

18 A. Yes. And I will agree with that and I'm telling the
19 truth now.

20 Q. The City of Huntington has been a model for how to
21 address the opioid problem; correct?

22 A. Yes. And that model is changing on a monthly basis.

23 Q. Let's look at the comprehensive set of programs that
24 make Huntington a model. You're familiar with the City of
25 Solutions guide?

1 **A.** Yes.

2 **Q.** I'm going to ask you to take a look at that. And
3 that's been marked as Defense West Virginia 2653.

4 MR. FARRELL: Judge, I think it's appropriate for
5 me to make an objection on this basis of cumulative. I
6 think you'll probably recall this is probably the fifth or
7 sixth time you've been handed the same documents that go
8 through the same programs.

9 The county and the city stipulate that all of the
10 programs that are mentioned in the City of Solutions are
11 programs in the City of Huntington and Cabell County.

12 MR. RUBY: Judge, I don't think Mr. Farrell
13 respectfully knows what questions I'm going to ask yet.

14 THE COURT: Yeah. You can go ahead with your
15 question.

16 BY MR. RUBY:

17 **Q.** Mayor, this is --

18 THE COURT: Objection is overruled. Go ahead.

19 MR. RUBY: Thank you, Your Honor.

20 BY MR. RUBY:

21 **Q.** Mayor, this document that's been put in front of
22 you is the City of Solutions guide that was put together
23 to explain Huntington's successes in the fight against
24 opioids?

25 **A.** Yes.

1 Q. This is from 2019; correct?

2 A. Yes.

3 Q. And this is a guide that was created to share with
4 communities around the country and around the world;
5 correct?

6 A. Yes.

7 Q. This was written by Marshall University's Division of
8 Addiction Sciences; is that right?

9 A. Yes.

10 Q. Including Dr. Steve Petrany; correct?

11 A. Yes.

12 Q. And Dr. Lyn O'Connell?

13 A. Yes.

14 Q. Drs. Petrany and O'Connell are knowledgeable about the
15 opioid problem in Huntington, aren't they?

16 A. Yes.

17 Q. And so are their colleagues at the Division of
18 Addiction Sciences?

19 A. Yes.

20 Q. Let's look at what the guide said about the cause of
21 Huntington's opioid problem, if you'd turn to Page 8,
22 History.

23 I think Mr. Huynh's waiting for me to move to admit
24 this, Judge. This is probably in evidence.

25 MR. HESTER: Yes, it is.

1 MR. RUBY: This is already in evidence, Your
2 Honor. I'm going to ask to publish it.

3 We're on Page 8, Mr. Huynh.

4 THE WITNESS: Yes, Page 8. Did you ask me a
5 question or did I --

6 BY MR. RUBY:

7 Q. No. I was just trying to get the right page on the
8 screen.

9 So do you see the section at the top of Page 8 that
10 begins with "History"?

11 A. History, yes.

12 Q. And the first paragraph there, Mayor, says, "Every
13 region of the United States is currently experiencing the
14 negative impact of the substance use epidemic with certain
15 regions and communities experiencing it at a much higher
16 rate. The Appalachian region, West Virginia, and the City
17 of Huntington in West Virginia are currently experiencing
18 the highest rate in the country --" and this is the passage
19 that I want to focus your attention on -- "due to a strong
20 combination of environmental and social factors."

21 Did I read that correctly?

22 A. Yes.

23 Q. Now, that's what Marshall's Division of Addiction
24 Sciences said about the cause of Huntington's high substance
25 abuse rate; correct?

1 **A.** Yes.

2 **Q.** And you wrote a Forward to this document; correct?

3 **A.** Yes.

4 **Q.** We'll look at that in just a minute. But what I first
5 want to turn to is a listing in the Table of Contents of
6 this document.

7 MR. RUBY: If we can go back to the Table of
8 Contents, Mr. Huynh.

9 THE WITNESS: Yes.

10 BY MR. RUBY:

11 **Q.** Do you see that, Mayor?

12 **A.** Yes.

13 **Q.** And under Table of Contents the second bold heading
14 down is a heading that says "What We Have Now."

15 Do you see that?

16 **A.** Yes.

17 **Q.** And under that is a listing of substance abuse related
18 programs that currently exist in Huntington; correct?

19 **A.** It's not comprehensive, but, yes.

20 **Q.** And the Court has already heard about many of these
21 before, so we won't rehash that exhaustively. But let's
22 just talk about these at a high level. There are more than
23 20 programs on this list; correct?

24 **A.** I haven't counted them.

25 (Pause)

1 I'm counting 15, but I might be wrong.

2 **Q.** I could be off. Maybe I was counting the headings. In
3 any event, there are a large number of programs on the list;
4 correct?

5 **A.** Yes.

6 **Q.** There are multiple programs that serve the function of
7 prevention; correct?

8 **A.** Yes.

9 **Q.** There are multiple programs that are focused on
10 intervention, meaning intervening in the lives of people
11 with substance abuse?

12 THE COURT: Mr. Farrell.

13 MR. FARRELL: I'm hoping my objection is now
14 timely that this is cumulative with the third or fourth time
15 we've been through the programs with the actual witnesses
16 that wrote the City of Solutions.

17 THE COURT: Well, this is cross-examination. I
18 think, I think the defendants have a right to probe this
19 through this witness. But you're testing my patience here,
20 Mr. Ruby.

21 MR. RUBY: Well, I don't mean to do that, Your
22 Honor, and we're not going to go past this list in the Table
23 of Contents. We're going to discuss the program briefly
24 without going into any detail about any of them.

25 BY MR. RUBY:

1 **Q.** What I'll ask you, Mayor, and I won't go through
2 all of them, but there's a medically assisted treatment
3 program on here, PROACT; correct?

4 **A.** Yes.

5 **Q.** And that program is funded almost entirely by
6 government and private health insurance; right?

7 **A.** I wasn't aware of that. I know, I know the partners
8 who are in Marshall, Marshall Health, the Mountain Health
9 network, at one point Valley Health was involved. I don't
10 think they're involved any longer. So if it was grants and
11 such as that, I won't dispute that, but I don't have that as
12 personal knowledge.

13 **Q.** And the list of programs that's on here you already
14 indicated is not a comprehensive list; correct?

15 **A.** Correct.

16 **Q.** There are other programs that provide substance abuse
17 treatment for people in Huntington that aren't listed here?

18 **A.** Yes.

19 **Q.** Valley Health is one of those; right?

20 **A.** Yes.

21 **Q.** That's a federally qualified health center; correct?

22 **A.** Yes.

23 **Q.** It's supported by federal money?

24 **A.** I presume.

25 **Q.** And Prestera is another provider of substance abuse

1 that's not listed here?

2 **A.** Right.

3 **Q.** They're one of, if not the largest provider, of
4 substance abuse treatment services in Cabell County;
5 correct?

6 **A.** Yes.

7 **Q.** And also of behavioral health services?

8 **A.** Yes.

9 **Q.** They see thousands of patients every year?

10 **A.** Yes.

11 **Q.** And there are all together 14 medically assisted, or
12 medication assisted treatment providers in Cabell County;
13 correct?

14 **A.** That I wouldn't know.

15 **Q.** If Dr. O'Connell had said that in her testimony in this
16 trial, would you have any reason to disagree?

17 **A.** I would not have any reason to dispute her. That would
18 be in her expertise. Certainly it's not something that I'm
19 aware of.

20 **Q.** And those include Ohio Valley Physicians; correct?

21 **A.** I would presume.

22 **Q.** And Valley Health, as we just talked about, also does
23 medication assisted treatment; correct?

24 **A.** I will take your word for it. I believe you're right,
25 but it's not something that is my direct immediate

1 recollection or knowledge.

2 **Q.** And the point that I'm getting to here, and I hope this
3 will address Mr. Farrell's objection, Your Honor, is that
4 none of those programs is funded from the budget of the City
5 of Huntington; correct?

6 **A.** And they will never be and should never be.

7 **Q.** None of them are funded from the budget of Cabell
8 County; correct?

9 **A.** Correct.

10 **Q.** Many of them receive funding from Medicaid; correct?

11 **A.** Yes.

12 **Q.** Many of them receive funding from private insurance;
13 correct?

14 **A.** Yes.

15 **Q.** Many of them, or at least some of them receive funding
16 from Marshall University; correct?

17 **A.** I don't know about that, but I do know this, is that
18 part of the city's responsibility is not just to provide a
19 service, but to provide leadership. And each of these
20 groups that we've talked to were part of the network and
21 collaboration that we established. And I don't know -- I
22 know I have never represented that the city should be going
23 into the treatment business. And I think I made that pretty
24 clear today.

25 **Q.** And I think we may be able there to find a point on

1 which we can agree, Mayor. A significant reason that the
2 city doesn't fund the treatment is because it's already
3 funded from those other sources; correct?

4 **A.** Yes, and we don't do that. We don't have the
5 professional expertise to provide that service.

6 **Q.** Let's talk about the city's success and what the
7 outcome has been of the comprehensive set of programs that
8 we've looked at.

9 Overdose deaths in Cabell County peaked in 2017;
10 correct?

11 **A.** Yes.

12 **Q.** You're familiar -- you testified earlier this morning
13 about the State Office of Drug Control Policy; correct?

14 **A.** Yes.

15 **Q.** And, in fact, the director of your Office of Drug
16 Control Policy went on to be the founding director of the
17 State Office of Drug Control Policy; correct?

18 **A.** Yes.

19 **Q.** That was Mr. Johnson?

20 **A.** Yes, sir.

21 **Q.** And one of the things that Mr. Johnson and those who
22 have followed him at that office did was to put overdose
23 statistics on-line; correct?

24 **A.** Yes.

25 **Q.** Mr. Johnson and his successors created something called

1 a Data Dashboard?

2 **A.** I believe -- I couldn't remember -- I can't remember
3 what that is called, but I have no reason to doubt what
4 you're saying.

5 **Q.** It's a website; correct?

6 **A.** Yes.

7 **Q.** And it is a vehicle on the web, on the internet where
8 the State Office of Drug Control Policy shows overdose data?

9 **A.** Yes.

10 **Q.** I'm going to ask you to take a look, Mayor, at some
11 data from, from that ODCP website. And I have three
12 exhibits that cover three years. These are marked
13 MC-WV-2243, 2239, and 2240.

14 MR. RUBY: Approach, Your Honor?

15 THE COURT: Yes, you may.

16 MS. KEARSE: I don't know what the document is,
17 Your Honor.

18 THE COURT: Ms. Kearse doesn't know what you're
19 dealing with here. Show counsel the documents.

20 MR. FARRELL: Judge, I think I would like to make
21 two objections.

22 Number one, if I'm not mistaken, this is data from a
23 dashboard on the internet that has already been referenced
24 from another witness unless this is a new document. But I
25 think 2240 has already been referenced.

1 MR. RUBY: Your Honor, I believe that these were
2 shown to, to one of plaintiffs' expert witnesses the other
3 day, but certainly the Mayor hasn't seen these and I haven't
4 had an opportunity to cross-examine him about these.

5 THE COURT: Well, if it's been previously
6 referenced, what is the significance of that?

7 MR. FARRELL: Well, the significance is if it's
8 not been admitted, if it's simply been referenced, then --
9 and I'll be very forthright with the Judge. I'm thinking
10 through the next several weeks.

11 Without the foundation of the data from this document,
12 I'm not sure that it's permissible to cross-examine without
13 some type of foundation on the legitimacy of these data
14 conclusions.

15 THE COURT: Well, where are you going with this,
16 Mr. Ruby?

17 It might be sufficient to give him a basis for his
18 cross-examination, Mr. Farrell.

19 MR. RUBY: And that's fine, Your Honor. I'm not
20 going to move to admit these.

21 MR. FARRELL: No, no, I'm not saying to admit
22 them. I understand that. I'm, I'm wondering what
23 foundation is required for him to ask questions about data
24 compiled from an outside source.

25 THE COURT: Well, we'll see where he goes with it

1 because it doesn't take much to provide a basis for
2 questions during a cross-examination --

3 MR. FARRELL: Thank you, Your Honor.

4 THE COURT: -- as long as his questions are in
5 good faith.

6 MR. FARRELL: Thank you.

7 MS. KEARSE: And, Your Honor, I don't object if
8 he's familiar with this. I don't know if he's laid that
9 foundation as well.

10 MR. RUBY: Well, Your Honor, I think the witness
11 has already said that he's familiar with the data that the
12 State Office of Drug Control Policy --

13 THE COURT: Go ahead and ask the questions, Mr.
14 Ruby, and we'll see where it goes.

15 BY MR. RUBY:

16 **Q.** And, Mayor, just to recap, you are familiar with
17 the data that the Office of Drug Control Policy
18 publishes on-line; correct?

19 **A.** I think a more accurate statement is I'm familiar with
20 the database.

21 **Q.** That's fair. I'm going to ask you to look first,
22 Mayor, at the one that has been marked for identification as
23 MC-WV-02243.

24 **A.** Okay.

25 **Q.** And do you see that this is a printout of the Data

1 Dashboard for fatal overdoses in West Virginia overview?

2 **A.** Yes.

3 MR. RUBY: And I'm going to ask, Your Honor, if we
4 could -- and I'll ask this because of the quality of the
5 printout that I have and that the Court has and the witness
6 has is not very good with respect to the section of the data
7 that we're looking for. So I'd like to put it on the screen
8 and blow that up. Judge --

9 THE COURT: I'm puzzled. Go ahead. I was
10 reading. I wasn't listening to you, Mr. Ruby. Can you
11 re-address me, please?

12 MR. RUBY: I'm sorry, Your Honor. I just wanted
13 to know if I could publish because the print quality is not
14 very good. That may be why you're puzzled. The quality of
15 this printout is hard to read. And, so, we'd like to put it
16 on the screen.

17 THE COURT: Yeah, go ahead.

18 MR. RUBY: Thank you.

19 BY MR. RUBY:

20 **Q.** Now, on the -- there's a screen there beside you,
21 Mayor, that also might be easier to read, to the side of
22 you.

23 **A.** Actually, this hasn't been on at all today so --

24 **Q.** Oh, sorry. Do you see that this is a -- this is the
25 State Office of Drug Control Policy listing of fatal

1 overdoses in West Virginia for the year 2017?

2 **A.** Yes.

3 **Q.** And if you look at the numbers for Cabell County,
4 Mayor, the, the data here show that there were 182 overdose
5 deaths in Cabell County in 2017 in which the decedent had
6 some opioid in their system.

7 Do you see the row for Cabell County and the column for
8 all opioids?

9 **A.** Yes. Is it all right if I write on this?

10 **Q.** Of course.

11 **A.** This is 43; correct?

12 **Q.** This one is 43, yes. And 162 of those involved
13 fentanyl in the decedent's system; is that correct?

14 **A.** Yes.

15 **Q.** And 62 of them involved heroin in the decedent's
16 system; is that correct?

17 **A.** Yes.

18 **Q.** And I want to ask you about these because we're going
19 to look at the trends over a period of three years, but I'll
20 just ask you a side question.

21 There's nothing on this, this listing from the ODCP
22 about prescription opioids at all, is there?

23 **A.** Not that I see. What I'm noticing -- and I guess --

24 MR. FARRELL: I'm going to object at this point,
25 Your Honor. I think that's an unfair question based on the

1 last eight weeks worth of testimony about what an opioid is.
2 To ask this witness that question I don't think is fair.

3 THE COURT: I'm going to sustain the objection.
4 You're just asking him to read into the record things off
5 the exhibits here, Mr. Ruby, it seems to me, without showing
6 any knowledge on his part. I mean, I don't -- I'm going to
7 sustain the objection to this.

8 BY MR. RUBY:

9 Q. Well, let me ask you this, Mr. Mayor. You're aware
10 that from 2017 to 2019, overdose deaths in Cabell County
11 fell by approximately 50 percent; correct?

12 A. I'm not sure of the percentage, but I believe -- I do
13 know that they were falling 2017 to '19, correct, yes.

14 Q. Are you aware -- are you aware that they fell
15 substantially?

16 A. Yes.

17 Q. And are you also aware that the number of overdose
18 response calls that the Huntington Fire Department responded
19 to fell by more than 80 percent from 2017 to 2019?

20 A. Yes. But I would also point out, and maybe this is
21 where we will go, in 2020 our -- once again, it demonstrates
22 the fragility of addiction. In 2020 our overdose rates went
23 up. I haven't been able to see the overdose deaths, but the
24 overdoses, overdose calls increased throughout 2020. And
25 for six months of this year, they've increased over that.

1 **Q.** And we'll talk about that, Mayor. But let me ask you
2 about the -- again about the period prior to that.

3 In 2018 Huntington saw a double-digit decline in
4 property crime; correct?

5 **A.** Yes.

6 **Q.** And also a double-digit decline in violent crime;
7 correct?

8 **A.** Yes.

9 **Q.** And all of that reflects the impact of the
10 comprehensive set of programs that exist in Huntington to
11 address the opioid epidemic; correct?

12 **A.** Yes. We -- yes.

13 **Q.** And even last year when the country and the state set
14 overdose records during the COVID pandemic, Cabell County's
15 overdose rate was still well below where it was in 2017;
16 correct?

17 **A.** Can I clarify something before I -- I can say "yes
18 but." It's all a matter of, of perspective. Forgive me for
19 just using this analogy.

20 I heard on the news last night it's 119 degrees out
21 west. If it drops down to 95 degrees, it's still hot, but
22 it might be perceived to be a cold snap.

23 The level of -- the highest level that we were having
24 in 2017 and such, I would hope it would be coming down. But
25 where we found ourselves in '19, it was still way too high,

1 still way too high. And just -- yes, we would say, yes,
2 they're dropping so that I could try to create some level of
3 hope within, within the community. But the reality is we
4 still continue to have a miserable, horrible problem.

5 **Q.** Do you know Bob Hanson, Mayor?

6 **A.** Yes.

7 **Q.** He was the CEO of Prestera Center; is that right?

8 **A.** Yes.

9 **Q.** And he was the Director of Addiction Services at
10 Marshall?

11 **A.** Yes.

12 **Q.** He went on to be the Director -- a Director after
13 Mr. Johnson at the State Office of Drug Control Policy?

14 **A.** Yes.

15 **Q.** He's an expert on addiction and substance abuse in West
16 Virginia; correct?

17 **A.** Yes.

18 **Q.** And I'm going to show you what he said about the
19 increase in overdoses during COVID. I'll ask you to look at
20 what's been marked as Defendants' --

21 MR. FARRELL: Objection, Your Honor, hearsay.

22 MR. RUBY: Your Honor, I'm not offering it for the
23 truth. My plan is to cross-examine the witness in
24 accordance with his understanding.

25 MS. KEARSE: Your Honor, it shows a statement by

1 someone else that's not --

2 THE COURT: You're getting pretty far afield here,
3 Mr. Ruby. I'm giving wide latitude in cross-examination,
4 but you're asking him about things that he may not know
5 about. I mean, I'm going to sustain the objection to this
6 line of questioning.

7 You've made the point that the deaths were decreasing
8 and the Mayor admitted that and then explained his answer
9 and I think you need to get on with your next question.

10 We need to break right now. We'll come back at five
11 till 3:00.

12 (Recess taken at 2:46 p.m.)

13 THE COURT: Let's move this, Mr. Ruby, and get it
14 done, okay?

15 MR. RUBY: Your Honor, I've been reminded that the
16 prospect was raised yesterday of an afternoon off. And so,
17 I have no further questions of this witness.

18 THE COURT: All right. Any other cross
19 examination?

20 MR. NICHOLAS: No, Your Honor.

21 THE COURT: All right. Any re-direct?

22 MS. KEARSE: There's a couple of things I think
23 Mr. Farrell and I will cover very quickly.

24 THE COURT: You probably made yourself very
25 unpopular with your co-counsel, Mr. Ruby.

1 MR. FARRELL: Except for Mr. Hester. I think Mr.
2 Hester --

3 MR. HESTER: Looking good now.

4 (Laughter)

5 **REDIRECT EXAMINATION**

6 **BY MS. KEARSE:**

7 **Q.** Just a couple of things, Mayor. Good afternoon.

8 **A.** Yes, ma'am.

9 **Q.** So, quickly, you were shown a couple of complaints that
10 I believe you hired counsel to assist in doing some
11 complaints before this Court; is that correct?

12 **A.** Yes.

13 **Q.** And you were shown some excerpts from the complaint,
14 WV-02631, which is a complaint before this Court in this
15 case; do you recall that?

16 **A.** Yes, ma'am.

17 **Q.** And I just want to draw your attention to a couple
18 paragraphs. And let me back up.

19 MS. WU: Your Honor, we object. This isn't an
20 opportunity for the plaintiffs to read their own complaint
21 into the record. We were able to use portions of it as
22 admissions, but it is not an opportunity for the plaintiffs
23 to read their complaint into the record.

24 THE COURT: Well, what are you going to ask him?

25 MS. KEARSE: There's just two things, Your Honor,

1 on particular areas they were asking him about.

2 MS. WU: We would ask that Ms. Kearse ask
3 questions rather than reading the complaint, or portions of
4 it, into the record.

5 BY MS. KEARSE:

6 **Q.** Let me ask you this, Mayor. Over the seven and a half
7 years that you've been mayor and bringing these lawsuits,
8 have you been looking into the culpability of various
9 defendants in regard to assisting in a -- paying for a
10 public health nuisance?

11 **A.** No.

12 MS. WU: Your Honor, objection. Calls for a legal
13 conclusion.

14 BY MS. KEARSE:

15 **Q.** You were -- Mayor, you were shown a couple of
16 paragraphs --

17 THE COURT: Just a minute.

18 Overruled. Go ahead and ask him.

19 MS. KEARSE: 312.

20 BY MS. KEARSE:

21 **Q.** Mayor, you were shown Paragraph 313.

22 MS. KEARSE: Gina, if you can go up to Section B,
23 and it's under the Section B entitled The Summary of the
24 Origin of the Opioid Epidemic and Opioid Public Nuisance.

25 BY MS. KEARSE:

1 Q. Do you recall that?

2 A. Yes.

3 Q. Okay. And I want to draw your attention to the
4 Paragraph 312 that was above the paragraph about the Sackler
5 family and I want to ask you if you would agree with this
6 statement that's in the complaint.

7 By now, most Americans have been affected, either
8 directly or indirectly, by the opioid disaster. But few
9 realize that this crisis arose from the opioid
10 manufacturers', distributors', and dispensers' deliberate
11 efforts to evade restrictions. Manufacturers and
12 distributors alike acted without regard for the lives that
13 would be trampled in pursuit of profit. Do you agree with
14 that statement?

15 MS. WU: Your Honor, we object to the hearsay.
16 This is not an opportunity for the plaintiffs to read their
17 complaint into the record. Ms. Kearse may ask the witness
18 questions, but she's simply reading the plaintiffs'
19 complaint into the record.

20 THE COURT: Overruled. I think it's a proper
21 re-direct based upon the questions that were asked on cross.
22 So, I'll allow it. Go ahead.

23 MS. KEARSE: And I had another rule --

24 BY MS. KEARSE:

25 Q. In addition to that section, and specifically to

1 Paragraph 323, and, again, under the section about the
2 origins of the opioid epidemic and opioid public nuisance,
3 would you agree that the -- on 323, can you read that into
4 the record, Mayor?

5 **A.** 323. Once the marketing defendants, employing the help
6 of distributor defendants, created a mass market for
7 prescription opioids, McKesson Corporation,
8 AmerisourceBergen Drug Corporation, Cardinal Health,
9 Incorporated, H. D. Smith Wholesale Drug Company, CVS, Rite
10 Aid, Walgreens, Kroger, and Wal-Mart, Inc. (together
11 "distributor defendants"), along with the marketing
12 defendants, flooded it.

13 **Q.** And can you go down to -- we'll just go down to, yet,
14 distributor and marketing defendants.

15 **A.** Yet, distributor and marketing defendants repeatedly
16 shipped suspicious orders of opioids - often in quantities
17 that they knew or should have known exceed any legitimate
18 market for opioids, even the wider market for chronic pain,
19 and ignored red flags of suspicious orders of these drugs in
20 the plaintiffs' communities, thereby exacerbating the
21 oversupply of such drugs and fueling an illegal secondary
22 market.

23 **Q.** And do you agree with that statement, Mayor?

24 **A.** Yes.

25 MS. WU: Your Honor, objection. Foundation. The

1 witness has no personal knowledge of this information.

2 THE COURT: Well, overruled. On cross
3 examination, portions of the complaint were read into the
4 record and these are other portions that I think are
5 properly responsive to the ones that were read into on
6 cross.

7 MS. WU: We understand, Your Honor. However,
8 those are party admissions. That is not a way to open a
9 door to simply reading in the plaintiffs' allegations in
10 this case. The evidentiary rules don't allow for that.

11 MS. KEARSE: And that's the last one I'm going to
12 do just for completeness sake.

13 THE COURT: I'm going to overrule the objection.

14 MS. KEARSE: Can you please put it back up?

15 BY MS. KEARSE:

16 Q. You will agree with me, Mayor, that in that portion
17 that we just read that the marketing defendants, along with
18 the distributors defendants that are particularly named in
19 this courtroom, were part of the -- created a mass market
20 for prescription opioids --

21 MS. WU: Objection. Leading, Your Honor.

22 THE COURT: Sustained.

23 BY MS. KEARSE:

24 Q. Mayor, you were asked a lot about the budget and I
25 don't want to prolong the budget talks with that, but I

1 believe you did indicate that all aspects of your budget
2 have been impacted by the opioid crisis in your city?

3 **A.** Absolutely.

4 **Q.** And you continue to deal with budgetary issues in your
5 various departments, including police and fire, on a daily
6 basis that are specifically dealing with the opioid crisis
7 today?

8 **A.** Yes. And budgets are still being adversely affected by
9 the opioid -- by our efforts in fighting the opioid
10 epidemic.

11 MS. KEARSE: Mayor, I'm going to have Mr. Farrell
12 ask some questions, as well. Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: Is there any further cross?

15 MR. FARRELL: Judge, on behalf of Cabell County
16 Commission, I have a couple of questions.

17 THE COURT: All right. You may ask them.

18 MR. FARRELL: Can we pull up Defendant 2631,
19 please? That's the third amended complaint, just the front
20 page.

21 **RE-DIRECT EXAMINATION**

22 **BY MR. FARRELL:**

23 **Q.** Mayor, you were asked a couple of questions about the
24 third amended complaint and I believe you were asked the
25 question of you didn't sue any pharmacies or pharmacists.

1 You were asked some questions about Purdue Pharma and what I
2 would like to do is pull up the entire style of the case.

3 MR. FARRELL: And, Judge, may I approach the
4 screen for a moment?

5 THE COURT: Yes.

6 MR. RUBY: Your Honor, I just want to object to
7 the misstatement of the record. The question was to
8 pharmacists, not pharmacies. There was not a question asked
9 as to whether the plaintiffs had sued any pharmacies.

10 THE COURT: Well, I -- I'm going to cut this off.
11 I understand what's going on here and I can read the
12 complaint, Mr. Farrell.

13 BY MR. FARRELL:

14 Q. Now, you were also asked about the resolution that was
15 passed by the City of Huntington?

16 A. Yes.

17 Q. And one of the points I wanted to make with the
18 complaint was the third amended complaint has the City of
19 Huntington and Cabell County Commission as plaintiffs,
20 plural, in a joint complaint in this case. You understand
21 that?

22 A. Yes.

23 Q. And you understand that both the City and the County
24 waived your governmental economic losses?

25 A. Yes. And I recall that when we had these

1 conversations, I was insistent. I don't care about what we
2 spend. I'm worried about what is coming.

3 **Q.** And the lawsuit that you're bringing for public
4 nuisance is on behalf of the people who live in the City of
5 Huntington; is that your understanding?

6 **MS. WU:** Your Honor, objection. Leading and
7 misstates the allegations in this case.

8 **THE COURT:** Yeah. It's leading and I will sustain
9 the objection.

10 **MR. FARRELL:** All right.

11 **BY MR. FARRELL:**

12 **Q.** For whom are you bringing this lawsuit?

13 **A.** The people of Huntington.

14 **Q.** And which county do the people of Huntington live in?

15 **A.** Cabell.

16 **MR. RUBY:** Your Honor, that -- we object because
17 that states a legal conclusion. The County, I believe -- or
18 the City and the County have disclaimed the ability to bring
19 a suit in a parens patriae capacity on behalf of the people.
20 They brought the suit -- the County and the City have both
21 brought the suit in the names of their own governments.

22 **THE COURT:** Well, what about that, Mr. Farrell?

23 **MR. FARRELL:** I'm not quite sure what he means by
24 it. We have statutory authority. This isn't parens
25 patriae, which is common law. There are two specific

1 statutes from our legislature that allow the City of
2 Huntington, the governmental entity, the municipality, to
3 bring this cause of action on behalf of the people that live
4 within the city limits of Huntington. There's also a
5 statute bestowed by the West Virginia Legislature to the
6 County Commission to bring this.

7 THE COURT: Well, I think -- I think these are
8 legal questions that the Court is going to have to deal with
9 and I understand what they are and --

10 MR. FARRELL: Well, I promise I'll get -- I'll get
11 straight to it. The questions that were asked -- I'll see
12 if I can shortcut it.

13 Judge, I'd ask for the Court to take judicial notice of
14 Document 1433-18 in this record, which is the declaration by
15 the County Commission for the people that live in the county
16 to bring a public nuisance case against the distributors and
17 I'd ask for the Court to take judicial notice of
18 Document 1433-19 in this record where the City of Huntington
19 is authorized to represent the people that live in the City
20 of Huntington to bring this public nuisance case.

21 MS. WU: Your Honor, while we've been in court
22 this afternoon, the plaintiffs have filed a motion for
23 judicial notice of a number of documents, including those
24 Mr. Farrell just identified. We ask that we have a chance
25 to respond to that motion.

1 THE COURT: All right. I'll reserve ruling on
2 that.

3 MS. WU: Thank you, Judge.

4 MR. FARRELL: One last thing. Will you please
5 bring up -- this is the last -- last one, Judge -- Defense
6 1287.

7 BY MR. FARRELL:

8 Q. Mayor, do you recall you were asked about the Dear
9 Senator Manchin letter --

10 A. Yes.

11 Q. -- in the context of utter causes of the opioid
12 epidemic? I'd like to bring your attention to the third
13 full paragraph that was not referenced during your cross
14 examination and you see in the very first sentence, can you
15 -- can you tell me who it is that you identified in the very
16 first sentence of the third paragraph?

17 A. The first sentence? In the first sentence?

18 Q. Yes.

19 A. By one count?

20 Q. So, let me -- let me make it cleaner. You were asked
21 by counsel for Cardinal Health about all of the other people
22 that you have attributed as causing the opioid epidemic and
23 in your letter to Senator Manchin, is there anywhere in
24 there that you reference the distributors?

25 A. Nine pharmaceutical distributors flooded Cabell County

1 with 40 million prescription hydrocodone and oxycodone pills
2 from 2007 to 2012.

3 **Q.** And since filing this lawsuit and since sending this
4 letter to Senator Manchin, have you come to learn whether or
5 not the 40 million prescription pills is the entire extent
6 of prescription pills sold by the defendants?

7 MS. WU: Objection. Leading, Your Honor.

8 MR. RUBY: And calls for hearsay, Your Honor.

9 THE COURT: What did you say?

10 MR. RUBY: Also calls for hearsay, Your Honor.

11 THE COURT: I'll sustain the objection.

12 BY MR. FARRELL:

13 **Q.** Are you aware of how many pills the defendants sold to
14 Huntington-Cabell County as we allege in this lawsuit?

15 MR. RUBY: Objection, Your Honor. Foundation.

16 THE COURT: Sustained.

17 MR. FARRELL: I think I have expired the patience
18 of the Court and I hope I've made my point and, with that,
19 Judge --

20 THE COURT: Well, this is not the first time, is
21 it, Mr. Farrell?

22 (Laughter)

23 MR. FARRELL: It is not. You have been incredibly
24 gracious and patient with all of us.

25 THE COURT: Well, I don't know about that last

1 point.

2 Are we done with Mayor Williams? Can we mercifully
3 excuse him?

4 MR. RUBY: We're done, Your Honor.

5 MR. FARRELL: Yes.

6 THE COURT: Thank you, sir, very much. We
7 appreciate it.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Appreciate it. You're excused.

10 MR. FARRELL: So, Judge, we are going to have
11 cleanup before we formally rest. We can either do it
12 tomorrow morning before argument or we can take more time
13 this afternoon, but it's in the form of proffers, and I
14 think I have some AmerisourceBergen cleanup with document
15 replacements. It's just technical stuff that I think is
16 uncontroverted.

17 THE COURT: How long is it going to take you to do
18 it?

19 MR. FARRELL: Well, unless somebody kicks me, I've
20 got one right here in my hand that I can do.

21 THE COURT: Well, is that all of it or just part
22 of it?

23 MR. ACKERMAN: We have one deposition designation,
24 the one from yesterday that's now complete, but I don't
25 think it's a whole lot.

1 THE COURT: Let's do it at 9:00 in the morning
2 and, depending on how long you take, we'll start the -- what
3 did I allow, two and a half hours a side?

4 MR. HESTER: Yes, Your Honor.

5 THE COURT: Let's do it -- let's do it at 9:00.
6 And then, whatever time you take, we'll start the clock on
7 the two and a half hours for the defendants' motions at that
8 time.

9 MR. FARRELL: Thank you, Judge.

10 THE COURT: All right. Thank you all very much.
11 (Trial recessed at 3:10 p.m.)
12
13

14 CERTIFICATION:

15 I, Ayme A. Cochran, Official Court Reporter,
16 and I, Lisa A. Cook, Official Court Reporter, certify that
17 the foregoing is a correct transcript from the record of
18 proceedings in the matter of The City of Huntington, et al.,
19 Plaintiffs vs. AmerisourceBergen Drug Corporation, et al.,
20 Defendants, Civil Action No. 3:17-cv-01362 and Civil Action
21 No. 3:17-cv-01665, as reported on June 30, 2021.
22

23 S\Ayme A. Cochran

24 Reporter

s\Lisa A. Cook

Reporter

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June 30, 2021

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Ayme A. Cochran, RMR, CRR (304) 347-3128

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